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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR ROCK LOFT RIDGE ESTATES SUBDIVISION**

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September 8, 2023

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Fruit Heights City, Davis County, Utah

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR ROCK LOFT RIDGE ESTATES SUBDIVISION**

This Declaration of Covenants, Conditions, and Restrictions for Rock Loft Ridge Estates Subdivision (this "Declaration") is made as of Sept 8, 2023 by Bear Creek Development Inc., a Utah corporation ("Declarant").

**RECITALS**

A. Declarant owns fee simple title to that certain real property located at approximately 250 North 1450 East, Fruit Heights City, Davis County, State of Utah, more particularly described on Exhibit A attached hereto (the "Property");

B. Declarant desires to submit the Property, together with all buildings and improvements now or hereafter constructed on the Property, and all easements and rights appurtenant thereto to a project originally consisting of eighty-seven (87) Lots and Living Units constructed on the Lots, as well as all Common Areas in the Project to the terms and provisions of this Declaration;

C. The Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Project, subject to the following covenants, conditions, restrictions, easements and limitations herein set forth which are hereby declared to be for the benefit of the entire Property and all of the Project described herein and the owners thereof, their successors and assigns;

D. Declarant desires to establish a general plan for the improvement and development of the Property as an attractive, exclusive residential development for the purpose of enhancing and protecting the desirability and attractiveness of the Property and the quality of life within the Property, and, in furtherance of that plan, to subject the Property to the covenants, conditions, restrictions, reservations, easements, liens and charges hereinafter set forth;

E. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners or Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments, and liens as set forth herein which shall run with and be a burden upon the Property;

F. These covenants, conditions, restrictions, easements, and limitations shall run with the Property and shall be binding on and burden all parties having or acquiring any right, title, or interest to the Property or any part thereof and shall create servient tenements on the Property. The covenants, conditions, restrictions, easements, and limitations shall also benefit all parties having or acquiring any right, title, or interest to the Property and shall create dominant tenements on the Property;

G. The Association may be incorporated as a Utah nonprofit corporation and shall be entitled to the rights, obligations, and benefits of the Utah Revised Nonprofit Corporation Act (Utah Code Ann. 16-6a-101, et. seq.), as amended from time to time.

NOW THEREFORE, in consideration of the Property, Declarant hereby submits the Property to the provisions of this Declaration and declares, covenants and agrees that the

Property and each part thereof shall be held, encumbered, occupied, built on and otherwise used, improved, maintained, leased, sold, occupied and otherwise transferred subject to the following covenants, conditions, restrictions, reservations, easements, liens and charges, which shall (i) attach to and run with the land, (ii) be binding on the Property and all owners, lessees and other parties having, acquiring or otherwise at any time possessing any right, title or interest in or to the Property or any part thereof, or the right to use or occupy the Property or any part thereof, (iii) inure to the benefit of said owners, lessees and other parties, and (iv) be for the purpose of establishing a general plan for the improvement and development of the Property as an attractive and exclusive residential development. Declarant, as owner of the Property and for the purposes above set forth, declares as follows:

## ARTICLE 1

### DEFINITIONS

Capitalized terms used in the Governing Documents (including the above Recitals) have the following meanings:

1.1 Allocated Interest. Allocated Interest shall mean the interest of that Owner in the Common Expense liability, for purposes of voting in the Association, and for other purposes indicated in this Declaration or the Community Association Act. Each Lot shall have an equal Allocated Interest.

1.2 Articles. Articles mean the Articles of Incorporation for the Rock Loft Ridge Estates Owners Association, as amended from time to time.

1.3 Assessment. Assessments means any amount charged, imposed or levied by the Board on or against a Lot or the Owner of that Lot and shall include fines, interests and costs of collection incurred by the Association in connection with any action taken to bring an Owner into compliance with this Declaration.

1.4 Association. Association means Rock Loft Ridge Estates Owners Association. It is intended that the Association be a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. As long as the Association obtains the proper vote, any actions taken during any period of un-incorporation shall be binding.

1.5 Board. Board means the Board of Directors. The Board governs the business and affairs of the Association.

1.6 Bylaws. Bylaws mean the bylaws of the Association, as amended or restated from time to time. The Bylaws are attached hereto as Exhibit C.

1.7 City. City means Fruit Heights City, a political subdivision of the State of Utah.

1.8 Common Area. Common Area means, unless otherwise more specifically provided in this Declaration, the common areas, limited common areas, or open space as provided on the Map and that part of the Property which is not part of the Lots, including, but not

limited to, the undedicated areas within the Project, Private Roads, detention basins, parking areas, sidewalks, open spaces, trails, parks, and other areas in the Project which are not part of the Lots, together with all improvements thereon and all easements appurtenant thereto, including private utility lines, landscaping easements and personal property owned by the Association when the context so requires. The Association owns all Common Areas.

1.9 Common Expenses. Common Expenses mean the actual and estimated costs for: (a) maintenance, management, operation, repair, and replacement of the Common Area which is maintained by the Association; (b) management and administration of the Association, including, without limitation, compensation paid by the Association to managers, accountants, attorneys, consultants, and employees; (c) utilities (other than utilities that are separately metered and charged to the Lots), extermination, security, gardening, landscaping and other related services; (d) insurance and bonds required or allowed by this Declaration; (e) the establishment of reserves; (f) other miscellaneous charges incurred by the Association as provided for or allowed in the Community Association Act or the Governing Documents; (g) the obligations of the Association under the Governing Documents; and (h) any other expenses of the Association arising from the operation of the Association and not otherwise defined or precluded by the Governing Documents or any applicable law.

1.10 Community Association Act. Community Association Act shall mean the Utah Community Association Act, Utah Code §§ 57-8a-101 et seq., as it may exist at any given time.

1.11 Declaration. Declaration means this document, as amended, annexed, supplemented, or restated from time to time.

1.12 Director. Director means a member of the Board.

1.13 Geologic Event. Geologic Event means an earthquake, surface fault rupture, liquefaction, seismic stability, slope stability, debris flow, rockfall, landslide, mudslide, avalanche, sinkhole, or other similar event.

1.14 Governing Documents. Governing Documents mean this Declaration, Bylaws, Articles, Map, and Rules and Regulations.

1.15 Living Unit. Living Unit means a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence located on a Lot, together with all improvements located on the Lot concerned which are used in conjunction with such single-family residence.

1.16 Lot. Lot means a lot, parcel, plot, or other division of land designated for separate ownership and separately numbered on the Map. Lots shall include the Living Unit, and all improvements to the Lot whether under or over the Common Areas or not. Each Lot shall be assigned a separate "parcel" or "tax identification" number by the appropriate governmental agency.

1.17 Map or Plat. Map or Plat means the plat maps for Rock Loft Ridge Estates Subdivision, on file or to be filed for record with the Davis County Recorder and any amendments or supplements thereto or any plat maps recorded for additional phases. A preliminary Map is attached hereto as Exhibit B.

1.18 Member. Member means a Person who is an Owner of a Lot and has the right to vote on matters presented to the Members of the Association. If an Owner is not a natural person, the Owner may designate in writing an individual to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entity's formative documents shall be its representative.

1.19 Mortgage. Mortgage means and refers to any duly recorded mortgage or deed of trust encumbering a Lot.

1.20 Nonprofit Act. Nonprofit Act means Utah Revised Nonprofit Corporation Act, Utah Code §§ 16-6a-101 et seq., as amended or replaced from time to time.

1.21 Owner. Owner means a Person vested with record title to a Lot and whose interest in the Lot is held in fee simple, according to the records of the Davis County Recorder; provided, however, Owner shall not include a Person who holds an interest in a Lot merely as security for the performance of an obligation. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner. However, the seller and buyer may otherwise agree but must inform the Board in writing of the alternative arrangement.

1.22 Person. Person means an individual, corporation, partnership, association, trustee, or other legal entity.

1.23 Private Roads. Private Roads mean the undedicated roads within the Project depicted on the Map, if any, which shall be initially owned by the Declarant. Declarant may, at its option, convey to the Association title to the Private Roads, and upon such conveyance the Association agrees to accept title thereto.

1.24 Project or Property. Project or Property means Rock Loft Ridge Estates Subdivision, as shown on the Map. The Project includes the land, buildings, improvements and structures, easements, rights, appurtenances, and articles of personal property intended for use in connection therewith. Exhibit A contains the legal description for the Project. The Project is not a cooperative.

1.25 Resident. Resident means any Person living or staying at the Project. Residents include without limitation: Owners, tenants, family members of Owners and tenants, and guests staying more than one (1) week.

1.26 Restriction. Restriction means any limitation on the use of a Lot or the freedom of an Owner to act with respect to a Lot as set forth the Governing Documents.

1.27 Rules and Regulations. Rules and Regulations means rules and regulations adopted by the Board, from time to time, which clarify or add detail but do not conflict with the Restrictions.

1.28 Turnover Meeting. Turnover Meeting means the meeting described in Section 10.1.

## ARTICLE 2

### SUBMISSION, WITHDRAWAL, EXPANSION

2.1 Submission. The Project is submitted to be bound by the Governing Documents, to provisions of the Community Association Act, and to the Nonprofit Act. All Owners shall take title subject to the Governing Documents, Community Association Act, and Nonprofit Act. All Residents and other users of the Project shall be subject to the Governing Documents and Community Association Act.

2.2 Change; Withdrawal.

2.2.1 Prior to the Turnover Meeting, the Declarant may, in its sole and absolute discretion, reconfigure layout of the Lots or reduce or increase the number of Lots within the Project by filing for record with the Davis County Recorder's Office an amended Map reflecting such changes to the Lots.

2.2.2 Prior to the Turnover Meeting, the Declarant may, in its sole and absolute discretion, withdraw any property (excluding, however, any Common Areas conveyed to the Association by the Declarant) from the Project. Such withdrawn property shall no longer be subject to the covenants and restrictions of this Declaration except for any easements, rights, reservations, exemptions, power or privileges reserved to the Declarant pursuant to this Declaration which benefits the withdrawn property and burdens any remaining property which is subject to this Declaration. Such withdrawal shall be made by recording a supplement to this Declaration with the Davis County Recorder's Office, withdrawing the effect of the covenants and restrictions of the Governing Documents from the withdrawn property. Such withdrawn property may be utilized by the Declarant, or any successor, assign or transferee thereof, for any lawful purpose or use.

2.3 Expansion. Declarant hereby reserves the option, in its sole and absolute discretion, to expand the Project and subject additional land to this Declaration by recording a supplement to this Declaration with the Davis County Recorder's Office.

## ARTICLE 3

### RESERVED

## ARTICLE 4

### PROPERTY AND USE RIGHTS IN COMMON AREA

4.1 Member's Right of Enjoyment.

4.1.1 The Project will have Common Areas as designated in the Map for the benefit of all Owners. Every member of the Association shall have a non-exclusive right and easement for the use, benefit and enjoyment in and to the Common Area and such nonexclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth.



4.1.2 Subject to the Governing Documents, each Resident, guest, or invitee has the right to ingress and egress across the Common Areas necessary for access to its Lot. The rights described in this Section are appurtenant to and pass with title to the Lot.

4.1.3 No portion of the Common Area may be used exclusively by any Owner or Owners for personal gardens, storage facilities, or for any other personal purpose.

4.2 Delegation of Right of Use. Any Member may delegate its rights to the use and enjoyment of the Common Area to Residents, all subject to such reasonable rules and regulations which the Association may adopt.

4.3 Compliance with Covenants and Restrictions and Rules and Regulations. Each Owner and Resident shall comply with the covenants and restrictions imposed by this Declaration on the use and enjoyment of the Common Area. Further, each Owner and Resident shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Area, as such rules, regulations and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Area.

4.4 Allocated Interest of Each Unit in the Votes of the Association. The Owners of each Lot shall be entitled to vote their Allocated Interest for all matters related to the Association that Owners are permitted or required to vote or approve. Each Lot shall have an equal Allocated Interest. Any difference in square footage, location, size, value, or other aspect of any Lot shall not be reason to alter or change any Allocated Interest.

4.5 Plat. The Plat and all dimensions, descriptions, and identification of boundaries therein shall be binding on the Project and the Association. If any conflict exists between the Plat and this Declaration, the Plat shall control except to the extent provided for on the Plat or as otherwise provided by the application of controlling law. Subject to necessary approvals from any applicable municipality or government agency, the Declarant shall have the right to amend, change, or modify any Plat; subject only to the requirement that the Declarant obtain approval from any Owner of a Lot that has any boundary modified by the Plat.

## ARTICLE 5

### MAINTENANCE

5.1 Association Responsibilities. The Association shall furnish and be responsible for, and pay all expenses for, the management, operation, insurance, maintenance, repair, and replacement of the Common Areas, except as maintenance obligations are otherwise specifically assigned to the Owners under the Governing Documents. The foregoing Association maintenance responsibilities shall include the maintenance and repair of the sprinkler or irrigation systems servicing the Common Areas.

5.1.1 The Association shall have the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area; the Association retains the right to remove and replace any structure, item, or condition in the Common Area.



5.1.2 The Board shall determine, in its sole discretion, the appropriate maintenance standard for the Common Area, so long as those areas are maintained in the best interests of the Owners.

5.1.3 The Association shall furnish and be responsible for, and pay all expenses for, the maintenance, repair, and replacement of storm drains located within the publicly-dedicated rights of way within the boundaries of the Project (including, without limitation, cleaning out mud and other debris), and detention basins located within the boundaries of the Project. The Association's foregoing obligations shall be in effect although such improvements may be dedicated to the City or another governmental authority, and except as maintenance obligations are otherwise specifically assumed by the City or another governmental authority.

## 5.2 Owner Responsibilities.

5.2.1 All maintenance, repair, and replacement of the Lots and Living Units shall be the sole responsibility and expense of the Owner thereof, who shall maintain such Lot and Living Unit in good repair and appearance and in accordance with the Governing Documents of the Association. The Board, after notice and opportunity for hearing, or in the case of an emergency immediately, may assume the maintenance responsibility over a Lot or Living Unit if, in the opinion of the Board or according to the Governing Documents, the Owner fails, or is unwilling or unable, to adequately provide such maintenance. Should the Board exercise its right under this provision, the Board shall not be liable for trespass or nuisance and shall have the right to levy an individual Assessment pursuant to this Declaration against such Lot or Living Unit to recover its maintenance costs.

5.2.2 If a Geologic Event impacts or causes damage to an Owner's Lot or Living Unit, such Owner shall be responsible, at such Owner's expense, to promptly and diligently cleanup and repair such Lot or Living Unit, in accordance with the Governing Documents of the Association and all governmental requirements. A Geologic Event is considered an emergency, therefore, the Board may assume the cleanup and repair responsibility over such Lot or Living Unit if, in the opinion of the Board or according to the Governing Documents, the Owner fails, or is unwilling or unable, to timely and adequately provide such cleanup and repair. Should the Board exercise its right under this provision, the Board shall not be liable for trespass or nuisance and shall have the right to levy an individual Assessment pursuant to this Declaration against such Lot or Living Unit to recover its cleanup and repair costs.

5.2.3 The Owner shall be responsible for keeping the Lot and the Living Unit and all porches, patios, and exterior areas of a Living Unit associated with an Owner's Living Unit in good appearance and in a clean and sanitary condition, free of pests and rodents, and uncluttered. The Board may set forth in the Rules and Regulations any limits, restrictions, or guidelines on what may or may not be left, stored, installed, or placed on the exterior of any Living Unit, which may include a prohibition on leaving, installing, or storing any items or animals in such places.

5.3 Utilities. All utilities for individual Living Units (except those utility costs that are metered collectively and paid for by the Association as a Common Expense item) will be metered separately to each Living Unit, and such utility charges shall be the responsibility of the Owner.

## ARTICLE 6

### CONSTRUCTION AND MODIFICATION OF LIVING UNITS

6.1 Modifications to Living Units. Without the prior written approval of the Association, an Owner shall not construct or make any alterations, repairs, or modifications to a Lot or any part of the exterior of a Living Unit, including any area that the Owner is obligated to maintain and the initial construction of the Living Units. No improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon, including, without limitation, the initial construction of the Living Units, shall be made without the prior written approval of the Architectural Review Committee (ARC). The Architectural Review Committee (ARC) shall consist of three (3) members to be appointed by the Board. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the ARC. The Board may adopt Rules and Regulations related to the construction, alteration, or modification of Living Units, including, without limitation, design, exterior appearance, and compliance with the Governing Documents. In conjunction with obtaining the aforementioned approvals, the main level (first floor) of each Living Unit must be at least 2,400 square feet for a single level (one story) home or 3,000 square feet for a two-story home, and each Living Unit must have at least a three (3) car garage. In addition, in conjunction with obtaining the aforementioned approvals, including, without limitation, the initial construction of the Living Units, each Owner must (i) employ its own geotechnical consultant to certify to the Board that any planned improvements, alterations, repairs, excavation or other work of the Living Unit or on the Lot complies with the Geotechnical Report (defined below), and (ii) submit to the Board a landscaping plan prepared by a licensed landscape architect that certifies that planned landscaping on the Lot complies with the Water Covenants (defined below).

6.1.1 The Association may require that such construction, repairs, or modifications, if allowed, be made in a particular manner, by a particular person, or that they comply with particular materials or aesthetics requirements or other standards, at the Association's discretion, including, without limitation a requirement to use materials and colors that are substantially similar to the original construction of, or that are harmonious with, the surrounding Living Units.

6.1.2 Except as otherwise provided herein, an Owner may complete any maintenance or upgrades to the interior of a Living Unit not regularly or ordinarily visible from the exterior of a Living Unit.

6.1.3 All construction, remodeling and other repairs, and modifications to Living Units must be completed in compliance with all applicable building codes, laws, and the manufacturer's specifications for any materials, equipment, and fixtures.

6.1.3.1 No predominate metal roofs. 50 year Architectural Shingles, Tiles Roofs, and a mixture of architectural singles and metal are acceptable. Demonstratematerial is aesthetically pleasing and all materials must be approved by the architectural review committee.

6.1.3.2 No chain link fencing nor vinyl fencing is allowed. Chain link fencing is allowed for use by the declarant in debris flow areas as a precautionary safety measure.

6.1.3.3 No aluminum nor vinyl siding is allowed in the community unless the material is approved by the architectural review committee.

6.1.3.4 The community will receive mail delivery to a cluster of mail boxes to be serviced by the United States Postal Service.

6.1.4 An architectural review fee of \$500 may be assessed in order to cover the costs of review. If the Board determines in its discretion that plans or drawings need additional review due to the scope or nature of the remodeling, an additional fee not to exceed the actual cost of the review may be charged to the Owner. The Board may adjust these review fees on an as needed basis.

6.1.5 Without prior written permission of the Board and regardless of whether any response from the Association is timely received or not related to a request for modification approval to a Living Unit, none of the following shall occur at any time: (a) any use of the Common Area or Private Roads for staging, storage, assembly, or construction; (b) any nuisance as established by law or by the Governing Documents; (c) any blocking of the Common Area or Private Roads by vehicles, materials, or persons; or (d) any use of any Association garbage and disposal facilities for the disposal of debris, materials, or other items related to construction.

6.2 Waiver, Precedent, Estoppel. Approval or disapproval by the Board of any requested architectural change shall not be deemed to constitute precedent, waiver, or estoppel impairing the Board's right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to the Board.

6.3 Noncompliance. Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be in noncompliance. Upon receipt of a notice of noncompliance, Owners shall, at their own cost and expense, remove such nonconforming construction, alteration, or other work and shall restore the Lot or Living Unit to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to act as required hereunder, the Board or their designee, without liability for trespass or nuisance, shall have the right to enter the Lot, remove the violation, and restore the Lot or Living Unit to substantially the same condition as existed prior to the change. All costs incurred by the Association shall be an individual Assessment.

6.4 Liability. The Board shall not be liable to any Owner, occupant, builder or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act, provided only that the Board has acted in good faith based on the actual knowledge possessed by it. The Board is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

## ARTICLE 7

### ASSESSMENTS

7.1 Covenant for Assessment. Each Owner of a Lot, by accepting a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to have covenanted and agreed to pay the Association all Assessments levied from time to time as provided in this Declaration, including costs of collection (including attorney's fees) whether or not a lawsuit is commenced. No Owner may exempt themselves from liability for Assessments by abandonment of their Lot, failure of the Association to maintain the Common Areas, or non-use of the Common Areas. Each such Assessment, together with late fees, interest and costs of collection, shall be the personal obligation of the Owner. This personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior Owner. The amounts set forth in the statement shall be binding upon the Association.

7.2 Declarant's Covenant for Assessments. During the period that Declarant owns more than 80% of the Lots upon which a Living Unit shall be constructed, Declarant shall not be subject to Assessments but Declarant shall contribute such amounts to the Association as are necessary for the Association to meet its obligations under the budget after collecting Assessments from any Lots owned by third parties. From and after the date Declarant owns 80% or less of the Lots upon which a Living Unit shall be constructed, Declarant shall only be subject to Assessments for the Lot(s) of which Declarant is considered the Owner. A bulk sale by Declarant of all of the Lots or substantially all of the Lots shall not be used for purposes of calculating whether Declarant has transferred more than 80% of the Lots.

7.3 Annual Budget. The Board shall prepare an annual budget for the Association. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

7.4 Reserve Account. A five-hundred-dollar (\$500) Reinvestment Fee will be collected for each lot sale from member to member. Sales from Declarant to the first member is exempt from this fee. This fee will accumulate into the Reserve Account. After the Turnover Meeting, the Association shall establish a reserve account to fund long-term capital expenditures, maintenance, and replacement items related to the Common Areas in accordance with the Community Associations Act. The Board shall use reasonable efforts under the circumstances at any given time, subject to the Owners' rights under the Community Associations Act, to fund the reserve account. "Reasonable efforts under the circumstances" shall be determined by the Board and does not require fully funding the reserve account. The Board shall not be personally liable for failure to fund the reserve except in the event of gross negligence or intentional misconduct of the Board members is proven in a court of law.

7.5 Regular Assessment. The Board shall determine the amount of the regular Assessments to be paid by Owners of each Lot by multiplying the total budgeted amount in the annual budget by the Allocated Interest for each Lot. The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis, in accordance with the annual budget established pursuant to Section 7.3. Written notice of the regular assessment amount and payment schedule shall be sent to Owners at least 30 days in advance of the beginning of the fiscal year for which the regular assessment will be due. Apart



from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent. Regular Assessments shall not increase more than five percent (5%) over the regular Assessments for the immediately preceding fiscal year without approval of a majority of all Owners.

7.6 Special Assessment. The Association may levy a special Assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas. The Association may levy a special Assessment up to 50% of the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of a quorum of Owners.

7.7 Supplemental Assessment. If the regular Assessments are inadequate to pay the Common Expenses pursuant to an annual budget, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental Assessment to fund the supplemental budget. The Association may levy a supplemental Assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of a quorum of Owners.

7.8 Individual Assessment. Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots. Individual Assessments include, without limitation:

7.8.1 Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents;

7.8.2 Fines, late fees, interest, collection costs (including attorney's fees);

7.8.3 Services provided to a Lot due to an Owner's failure to maintain, for emergency repairs, or to protect the health, safety, and welfare of adjoining Lots and Common Areas; and

7.8.4 Any charge described as an individual Assessment in this Declaration.

7.9 Apportionment of Assessments. Regular, special, and supplemental Assessments will be apportioned equally among the Lots, in accordance with each Lot's Allocated Interest. Individual Assessments shall be apportioned exclusively to the Lots benefitted or affected.

7.10 Nonpayment of Assessment. Assessments not paid within 10 days after the due date established by the Board will be late and subject to interest at 18% *per annum* on any delinquent balance and a \$25.00 late fee. Late fees may only be charged once per missed payment.

7.11 Application of Payments. Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest Assessments, then the most recent Assessments.

7.12 Acceleration. If an Owner fails to pay their Assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments against that Owner due that year.

7.13 Suspension of Voting Rights. If an Owner has a delinquent Assessment balance, the Association may suspend their right to vote in any meeting of the Association, and take such other action allowed by law.

7.14 Lien for Assessment. All Assessments, late fees, interest, and collection costs (including attorney's fees) not timely paid shall be a charge and continuing lien upon each Lot against which the Assessment is made. The Association shall file a notice of lien with the Davis County Recorder as evidence of nonpayment.

7.15 Enforcement of Lien. Without waiving its right to personally pursue an Owner for unpaid assessments, the Association may foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

7.16 Appointment of Trustee. The Owners and Declarant hereby convey and warrant pursuant to Utah Code Sections 57-1-20 and 57-8a-302 to a member of the Utah State Bar, with power of sale, the Lots and all improvements on the Lots for the purpose of securing payment of Assessments under the terms of this Declaration.

7.17 Subordination of Lien. A lien for Assessments shall be subordinate to a first Mortgage now or hereafter placed upon a Lot. The sale of a Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for Assessments which became due prior to the foreclosure sale. A foreclosure will not relieve the purchaser at foreclosure's obligation to pay the past six (6) months of Assessments, late fees, and penalties for the Lot.

7.18 Fines. The Association shall give an Owner 7-day written notice to cure a violation of the Governing Documents prior to assessing a fine against such Owner's Lot.

## ARTICLE 8

### RESTRICTIONS ON USE

8.1 Use of Lots - Residential Use. Each of the Lots in the Project is limited to single-family, residential use only. Each Lot and Owner is subject to the uses and restrictions imposed by such Restrictions (including any parking restrictions).

8.2 No Accessory Structures. Notwithstanding anything to the contrary contained in the Governing Documents, no accessory structures shall be constructed on any Lot without the prior written consent of the Board. The restriction on accessory structures contained in this subsection shall include, without limitation, decks, sheds, awnings, pergolas, and similar structures associated with the Living Units. All approved accessory structures, including but not limited to, sheds, decks, and porches must match the architectural style of the main home structure. No plastic accessory structures are allowed.

8.3 No Obstruction of Common Areas. There shall be no obstructions of the Common Areas by the Owners, Residents, and their tenants, guests or invitees without the prior written consent of the Board. The Board may by Rules and Regulations prohibit or limit the use

of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots or the Common Areas.

Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Board.

**8.4 Cancellation of Insurance, Illegal Activity.** Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. Regardless of the foregoing, the Association shall have no obligation to enforce the statutes, rules, ordinances, regulations, or the requirements imposed by a governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner's Residents or invitees.

**8.5 Nuisances.** No Resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this section a "nuisance" includes behavior which annoys, disturbs or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of their Lot(s). A nuisance includes but is not limited to the following:

8.5.1 The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

8.5.2 The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

8.5.3 The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Board or the Association;

8.5.4 The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

8.5.5 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;



8.5.6 Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

8.5.7 Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Community by other residents, their guests or invitees;

8.5.8 Too much noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

8.5.9 Too much traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

8.5.10 Allowing a pet to be unleashed while outside of the Living Unit or fenced backyard;

8.5.11 Continuous barking, meowing, or other animal noises;

8.5.12 Allowing your pet to urinate or defecate in the Common Areas or failing to cleanup immediately any feces deposited by a pet in the Common Area or other areas within the Project.

8.6 Rules and Regulations. The Association shall have the authority to promulgate and enforce such reasonable Rules and Regulations as may aid the Association in carrying out any of its functions and to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners. No Owner or Resident shall violate the Rules and Regulations for the use of the Lots and of the Common Areas as adopted from time to time by the Board. An Owner shall be responsible to advise their guests and invitees about the Rules and Regulations and shall be responsible for their guests and invitees' compliance with the Rules and Regulations. Pursuant to Utah Code 57-8a-218(15), the requirements of Utah Code 57-8a-218 are hereby modified to not apply to the Association.

8.7 Structural Alterations. All construction, improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon, including, without limitation, the initial construction of the Living Units, shall be made in compliance with Article 6.

8.8 Signs. Subject to the provisions of the Community Association Act and applicable law, no signs shall be erected or maintained in the Common Areas without the prior written consent of the Board; the Association may regulate and restrict signs in the Project, to the extent permitted by law, in the Rules and Regulations. "Signs" shall include any type of object including, without limitation, flags, billboards, banners, plaques, a-frames, easel signs, poly-bag signs, corrugated plastic signs, lawn signs, window signs used to convey a message, symbol, idea, identification, or for any other purpose that signs are typically used, that is placed in, on, or outside of a Living Unit with the apparent purpose, in whole or in part, of making it visible to people outside of the Living Unit.

8.9 Pets. No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two (2) domesticated dogs or cats shall be allowed on any one Lot as long as said animals do not unreasonably bother or constitute a nuisance to others and provided such animals are kept in compliance with the Rules and Regulations of the Association. If a pet owner violates any of pet Rules and Regulations, the Board shall have the express authority to issue citations or levy Assessments, and collect these by judgment, lien or foreclosure. In extreme cases, the Board may require the Owner or Resident to remove their pet from the Project.

8.10 Vehicle Storage and Parking. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

8.10.1 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed on the Private Roads.

8.10.2 The parking Rules and Regulations adopted by the Board from time to time, including, without limitation, a fine schedule for violation of parking Rules and Regulations.

8.10.3 No recreational, commercial or oversized vehicles, boats, and trailers shall be allowed within the Project unless said vehicle or trailer is kept at all times within the garage of the Lot and the garage door is closed, or said vehicle or trailer is kept on a dedicated concrete parking pad located behind the front façade of the house and preferably blocked from view of the roads or streets by fencing features approved by the Board, except for purposes of loading or unloading passengers or supplies.

8.10.4 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or to create an obstacle.

8.10.5 Unregistered or inoperable vehicles shall not be parked on a driveway or street and shall be screened from view.

8.10.6 No Resident shall repair or restore any vehicle of any kind in, on a Lot (outside the garage) or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

Vehicles parked in violation of this Declaration may be impounded or towed without further notice, and at the Owner's sole expense.

8.11 Aerials, Antennas, and Satellite Dishes; External Fixtures. Aerials, antennas, and satellite dishes larger than one meter in diameter are prohibited. Aerials, antennas, and satellite dishes may not be installed on Common Areas. One antenna or satellite dish smaller than one meter in diameter may be installed within the Lot. The Association may create policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Project. To the extent permissible by applicable law and the Governing Documents, no external items such as, but not limited to, television and radio antennas, satellite dishes, flag poles, clotheslines, wiring, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens,

screen doors, porch, patio, or balcony enclosures, sunshades, lighting fixtures, walls, windows, skylights, landscaping and plantings, other than those provided in connection with the original construction of the Project, shall be constructed, erected, or maintained on the Project without the prior written approval of the Board.

8.12 Timeshares. Timeshares and time-sharing of Living Units within the Project is prohibited, and under no circumstances shall any Lot be owned or used for time sharing, including but not limited to a "Timeshare Interest" as that term is defined in Utah Code Ann. § 57-19-2(27), as amended.

8.13 Utility Service. All lines, wires, or other devices for the communication or transmission of electric current of power, including telephone, internet, television and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Board.

8.14 Temporary Structures. No structure of a temporary character, trailer, camper, tent, shack, garage, or other outbuilding shall be used or constructed on any Lot temporarily, unless first approved in writing by the Board.

8.15 Repair of Buildings. No Living Unit upon any Lot shall be permitted to fall into disrepair, and each such Living Unit shall be at all times be kept in good condition and repair and adequately painted or otherwise finished.

8.16 Subdivision of Lots. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration. Nothing in this section shall affect the rights of the Declarant in amending subdivision plats prior to the Turnover Meeting.

8.17 Clothes Drying Facilities. Outside clotheslines or other outside facilities for cleaning, drying or airing clothes shall not be erected, placed or maintained on any Lot.

8.18 Unightly Items. All rubbish, debris, unsightly materials, or similar objects of any kinds shall be regularly removed from Living Units and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Living Units, shall be prohibited in any Living Unit unless obscured from view of the roads or streets by location in the garage of the Living Unit or on the side of the Living Unit within the fenced garbage can enclosure. Refuse containers shall not remain curbside more than 24 hours after the date and time of pick-up by the municipal or private trash collection service. Trash and garbage shall be properly and promptly disposed.

8.19 Air Conditioning Equipment. All heating, ventilation, air-conditioning and other machinery, equipment, or fixtures associated with a Living Unit shall be screened from view of the roads or streets by fencing or other landscaping features approved by the Board.

8.20 Window Coverings. The Board may adopt Rules and Regulations requiring window covers, regulating the type, color, and design of window covers, and requiring prior approval of window coverings before installation. Absent Rules and Regulations permitting otherwise, only curtains, drapes, shades, shutters, and blinds may be installed as window covers. No window shall be covered by paint, foil, sheets, or similar items.

8.21 Geotechnical Report; Waiver and Release Agreement. The City required Declarant to obtain a Geotechnical Engineering and Geologic Study, dated November 12, 2020 but last revised February 3, 2021 ("**Geotechnical Report**"), which addresses the nature of potential Geological Events on the Property and the potential effects and hazards associated therewith. Each Owner shall comply with the Geotechnical Report in the ownership, maintenance, repair, and replacement of its respective Lot(s). Each Owner acknowledges receipt of a copy of the Geotechnical Report, and a copy of the Geotechnical Report will be made available to Owners, upon request, by the Association. Acquisition of any Lot constitutes an acknowledgment that the Owner assumes any and all risk of damage and personal injury and waives all known or unknown claims of whatever nature against the City and Declarant and its agents, employees, officers, representatives, successors and assigns with regard to the Lot(s) purchased and any Geological Event. A waiver and release agreement in the form set forth on Exhibit E ("**Waiver and Release Agreement**") shall be executed by each Owner concurrently with the acquisition of the applicable Lot(s) and shall be recorded in the Davis County Recorder's Office. Notwithstanding the foregoing, the assumption of liability and waiver and release set forth in Exhibit D shall be effective against each and every Owner of any Lot within the Property whether or not the Waiver and Release Agreement is actually signed and recorded.

8.22 Water Covenants. Acquisition of any Lot constitutes an acknowledgment and agreement that the Owner covenants and agrees to comply with the water efficient landscaping standards set forth on Exhibit E (the "**Water Covenants**").

8.22 Independent Inspections by Engineer. The Association shall employ a geotechnical or other qualified engineer to inspect and monitor the Project on a quarterly basis to confirm the Lots' and Owners' compliance with the Geotechnical Report and the Water Covenants ("**Quarterly Inspections**"). The Association shall include the costs of the Quarterly Inspections in the annual budget and such costs shall be considered Common Expenses. If the engineer determines there is a Lot specific violation of the Geotechnical Report and/or the Water Covenants, the Association shall have the right to levy a individual Assessment against the applicable Owner. Initially, the inspecting engineer will be CMT Engineering. Quarterly Inspections are expected to continue until 75% of the homes have been completed and received Certificate of Occupancy, at which time, the Geotechnical inspection requirement will change from a Quarterly Inspection to an Annual Inspection.

## ARTICLE 9

### MEMBERSHIP AND ASSOCIATION



9.1 Membership. Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot.

9.2 Voting Rights. Voting is governed by the Bylaws.

9.3 Status and Authority of Board. The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Project and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

9.4 Composition and Selection of Board. The Bylaws govern how the Board is established and selected.

9.5 Adoption of Bylaws. The Association has adopted Bylaws which are being recorded simultaneously with this Declaration.

## ARTICLE 10

### DECLARANT RIGHTS

10.1 Administrative Control of Association. Declarant shall assume full administrative control of the Association through an interim Board appointed by the Declarant, which shall serve until the Turnover Meeting.

The Turnover Meeting shall be held at the Declarant's option and sole discretion but shall not be held later than three (3) years from the date the Declarant sells the last Lot of which Declarant is considered the Owner. For purposes of calculating the date when Declarant sells its last Lot, a bulk sale of the Project to another Declarant shall be excluded, it being the intent of this provision that the Turnover Meeting shall be no later than three (3) years after Declarant, or its assigns or successors, sells the last Lot to a builder or owner to construct a Living Unit.

Declarant may elect to relinquish control of the Association at an earlier time by written notice to Owners and the Turnover Meeting shall be held within ninety (90) days of such notice.

10.2 Other Rights. In addition to any other rights under the Governing Documents, as long as Declarant owns at least one (1) Lot within the Project, Declarant:

10.2.1 Sales Office and Model. Shall have the right to maintain a sales office and model on one or more of the Lots which Declarant owns. Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week.

10.2.2 "For Sale Signs." May maintain a reasonable number of "For Sale" signs, the size of which may be determined by Declarant, at reasonable locations on the Project, including without limitation, the Common Area.

10.2.3 Declarant Exemption. Unless specifically and expressly bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents.

10.3 Easements Reserved to Declarant.

10.3.1 The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Map as "Public Utility Easement," or otherwise designated as an easement area over any road or Common Area on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Map.

10.3.2 An easement for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, internet, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

10.3.3 Easement granting the privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

10.3.4 The reservation to Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services, and related services and facilities.

10.3.5 The Declarant further reserves unto itself, and its successors and assigns, the right to grant easements, rights-of-way and licenses to any person, individual, corporate body or municipality, to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto for public utilities, or quasi-public utilities or to grant such other licenses or permits as the Declarant may deem necessary for the improvement of the Project in, over, through, upon and across any and all of the roads, streets, avenues, alleys, and open space and in, over, through, upon and across each and every Lot in any easement area set forth in this Declaration or as shown on the Map.

10.3.6 The Declarant further reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Map. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Map, without the prior written approval of the Board.

10.3.7 Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter

upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

10.3.8 Declarant further reserves unto itself, for itself and any builder and their successors and assigns, the right, notwithstanding any other provision of this Declaration, to use any and all portions of the Project other than those Lots conveyed to Owners, including any Common Area which may have previously been conveyed to the Association, for all purposes necessary or appropriate to the full and final completion of construction of the Project.

The Declarant will take reasonable steps, and will ensure that any builder takes reasonable steps, to avoid unduly interfering with the beneficial use of the Lots by Owners.

10.4 Assessment Rights. The Declarant shall have the right to set all Assessments, regular and special, prior to the Turnover Meeting. Notwithstanding the Assessment of other Lots, no Lots owned by Declarant shall pay Assessments until such time as the Declarant elects to pay Assessments, and only for so long as Declarant elects to pay Assessments.

10.5 Assignment of Declarant Rights. Declarant may, at any time, by recording a written notice, assign or transfer all or some of its control, power, authority, or decision-making ability to the Association or any other Person or entity prior to the end Turnover Meeting. In the case of abandonment of the Project by the Declarant, the cessation of business by the Declarant, or the foreclosure of any undeveloped property that is subject to the provisions of this Declaration, the rights of the Declarant as provided for in this Declaration may be exercised by any owner of the undeveloped land within the Project, or to be expanded into the Project, or unfinished Living Units.

10.6 No Modification of Declarant Rights. Any Declarant rights in the Governing Documents, and specifically in this Article 10, shall not be substantively or procedurally altered without the written consent of the Declarant until fourteen (14) years have passed after the Turnover Meeting, at which time the Declarant's approval shall no longer be required. Any document or amendment attempted without obtaining proper consent shall be void ab initio to the extent it attempts to alter the rights of the Declarant or any provision of Article 10, without the consent of the Declarant. Any consent to waive, change, or alter any provisions of Article 10 by any future Declarant (as a result of any voluntary or involuntary assignment of Declarant rights) shall effect a change to those provisions only as to that Declarant and shall not be applicable to any prior Declarant without that prior Declarant's specific consent.

10.7 Declarant Exemption from Statutory Obligations. Pursuant to Utah Code Ann. 57-8a-217(6), Declarant is hereby exempt from the provisions of 57-8a-217. Pursuant to Utah Code Ann. 57-8a-211(10), Utah Code Ann. 57-8a-211(2)-(9) shall not apply or have any effect prior to the Turnover Meeting and, as allowed specifically by law, the Declarant shall have no duty whatsoever to obtain a Reserve Analysis, or to fund any Reserve Fund prior to the Turnover Meeting.



## ARTICLE 11

### COMPLIANCE AND ENFORCEMENT

11.1 Compliance. Each Owner or Resident of a Lot shall comply with the provisions of the Governing Documents and the Rules and Regulations adopted pursuant thereto and any applicable law or statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

11.2 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association, the right, in addition to any other rights set forth in the Governing Documents, or under law, to do, any or all of the following after giving notice and an opportunity to be heard:

11.2.1 To enter the Lot which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished. Costs and attorney's fees shall be an individual Assessment;

11.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

11.2.3 To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board;

11.2.4 To terminate the right to receive utility services paid for out of Assessments, if any, or, to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation has occurred;

11.2.5 The right of the Association to suspend the voting rights in the Association and the rights to use of the Common Area after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the Governing Documents; or

11.2.6 Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto. Costs and attorney's fees shall be an individual Assessment.

11.3 Action by Owners. Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

11.4 Injunctive Relief. Nothing in this Article shall prevent an Owner, the Association, or other interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

11.5 Hearing. The Board shall, by resolution, promulgate procedures for hearings. When a hearing is requested or required, the hearing shall be conducted in accordance with the Board's resolution on hearings.

11.6 Litigation. Because litigation can be slow, expensive, uncertain, and negatively impact the property values within a community, the Association shall only enter into litigation by approval of Owners holding eighty percent (80%) of the voting rights of the Association except for litigation to collect Assessments, enforce the Governing Documents (including fines or curative measures), or to defend itself.

## ARTICLE 12

### INSURANCE

12.1 Types of Insurance Maintained by the Association. The Association shall maintain the following insurance coverages:

12.1.1 Property casualty and fire insurance for the Common Areas to the extent reasonably available or deemed advisable by the Board;

12.1.2 Liability insurance in an amount deemed advisable by the Board;

12.1.3 Full coverage directors and officers liability insurance for such amount as the Board may determine in the exercise of its reasonable discretion; and

12.1.4 Fidelity bond or dishonest acts insurance for at least the value of the reserves and operating capital of the Association.

The Board may adopt insurance rules and policies to maintain the insurance required under this Section and keep the premiums reasonable.

12.2 Insurance Company. The Association shall use an insurance company knowledgeable with community association insurance, which is licensed in Utah.

12.3 Premium as Common Expense. The premiums for the Association's insurance policies shall be a Common Expense.

12.4 Insurance by Owner. Owners shall insure their Lots and all improvements thereon for the full replacement value. If requested, an Owner shall provide the Association with a certificate of insurance.

12.5 Payment of Deductible. The deductible on a claim made against an Association policy shall be allocated to the party which caused the loss. The Association shall have the right to determine which party caused the loss. If the loss is a "no-fault" loss, the Association shall pay the deductible.

12.6 Right to Adjust Claims. The Association has the right and authority to adjust claims.

12.7 Insurance Proceeds. If an Owner suffers a loss to their Lot or the improvements thereon, they shall use any insurance proceeds to restore the Lot and improvements to their original or better condition. If an insurable loss to the Common Areas occurs, the Association shall use the insurance proceeds to restore the Common Areas to their original or better condition.

12.8 Damage and Destruction of Common Area.

12.8.1 Immediately after any damage or destruction by fire or other casualty to all or any part of the insurable improvements on the Common Area, the Board, or its agent, shall proceed with the filing and adjustment of all claims arising under the fire and extended coverage insurance maintained by the Association and obtain reliable estimates of the cost of repair or reconstruction of the damaged or destroyed improvements. Repair or reconstruction means repairing or restoring the improvements to substantially the same condition in which they existed prior to the fire or other casualty.

12.8.2 Any damage or destruction to insurable improvements on the Common Area shall be repaired or reconstructed unless at least seventy-five percent (75%) of the Members present at a meeting of the membership held within ninety (90) days after the casualty shall decide not to repair or reconstruct.

12.8.3 If, in accordance with this Article, the improvements are not to be repaired or reconstructed and no alternative improvements are authorized by the Members, then and in that event the damaged Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition. In such event, any excess insurance proceeds shall be paid over to the Association for the benefit of the Project, which proceeds may be used or distributed as determined by the Board, in its discretion, or as otherwise provided in the Governing Documents.

12.8.4 If any improvements on the Common Area are damaged or destroyed, and the proceeds of insurance received by the Association are not sufficient to pay in full the cost of the repair and reconstruction of the improvements, the Board shall, without the necessity of a vote of the members, levy a special Assessment against all Owners in order to cover the deficiency.

12.9 Obligation of Lot Owner to Repair and Restore.

12.9.1 In the event of any damage or destruction of the Living Unit or the improvements on a Lot, the insurance proceeds, unless retained by a Mortgagee of a Lot, shall be applied first to the repair, restoration, or replacement of the insured Living Unit or improvements. Any such repair, restoration or replacement shall be done in accordance with the plans and specifications for such Living Unit originally constructed on the Lot or approved by the Board; unless the Owner desires to construct a Living Unit differing from the original, in which event the Owner shall submit plans and specifications for the improvements to the Board and obtain its approval prior to commencing the repair, restoration or replacement.

12.9.2 If any Owner of an improved Lot fails to maintain the insurance required by this Article, the Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Owner shall be

personally liable to the Association for any costs incurred by the Association in obtaining such insurance, to the same extent as such Owner is liable for assessments levied against its Lot, and, upon the failure of the Owner to pay such costs within 10 days after such Owner's receipt of a written demand therefor from the Association, the Association may establish a lien therefor upon the Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

## ARTICLE 13

### AMENDMENT, DURATION AND TERMINATION

#### 13.1 Amendments.

13.1.1 Approval Required. Except as otherwise provided in this Declaration, this Declaration may be amended by approval of Owners holding sixty-seven percent (67%) of the voting rights of the Association. The Board without Owner approval may amend this Declaration to correct spelling and grammatical errors.

13.1.2 Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration, and is acknowledged and recorded in the Davis County Recorder's Office, Utah.

13.1.1 Declarant's Right to Amend. Until the Turnover Meeting, the Declarant shall have the right to amend, revise, and modify this Declaration, the Bylaws, and the Rules and Regulations in any way, and at any time, including adding, removing, or changing substantive and material provisions, without any additional approvals from anyone, including, but not limited to, the Owners. Any such amendment to the Bylaws or Declaration shall be effective upon the recordation by the Declarant of an amendment duly signed by an authorized officer or Manager of the Declarant, with such signature acknowledged. When recorded, any such amendment shall be binding upon the Project and all Persons having an interest therein, including all Owners. Without limiting the generality of the foregoing, the Declarant alone may amend or terminate this Declaration prior to the closing of a sale or transfer of any Lot.

13.2 Duration; Termination. This Declaration shall continue in perpetuity unless and until (i) the Declarant files a notice of termination in the office of the Davis County Recorder at any time prior to the Turnover Meeting, or (ii) the Members vote by not less than sixty-seven percent (67%) of all Members of the Association to terminate this Declaration and dissolve the Association. In the event this Declaration is terminated pursuant to this Section 13.2, this Declaration shall be terminated by recording a notice with the Davis County Recorder and the Association shall be dissolved in accordance with Utah law.

## ARTICLE 14

### MISCELLANEOUS PROVISIONS

14.1 Professional Management. The Association may be managed by a professional management company. The Board may select the professional management company using criteria set by the Board and complying with Utah law.

14.2 Invalidity, Number, Captions. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

14.3 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

14.4 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and Rules and Regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property, including, without limitation, the Common Areas. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

14.5 Covenants Run with the Land. This Declaration contains covenants which run with the land and create equitable servitudes. This Declaration shall be binding upon and inure to the benefit of the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Project, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner or Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner or Resident agrees to be bound by the Governing Documents.

14.6 Waiver, Precedent and Estoppel. No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.

14.7 Notice of Sale, Mortgage, Rental, or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

14.8 Taxes on Lots. Each Owner will pay all taxes which may be assessed against such Owner's Lot.



14.9 Service of Process. The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce.

If the corporate status of the Association expires, the president shall be the successor agent. The name and address of the president shall be kept with the Association's records at its principal place of business.

14.10 Conflicts. If this Declaration conflicts with the Community Association Act, the Community Association Act shall control. If this Declaration conflicts with the Map, the Map shall control. If this Declaration conflicts with the Bylaws, Articles, or Rules and Regulations, this Declaration shall control. If the Articles conflict with the Bylaws, the Articles shall control.

[Remainder of Page Intentionally Omitted]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the date first set forth above.

**DECLARANT:**

**BEAR CREEK DEVELOPMENT INC.,**  
a Utah corporation

By: [Signature]  
Name: Matt Lowe  
Its: President

STATE OF UTAH                     )  
  ):ss.  
COUNTY OF                     )

On this 8<sup>th</sup> day of Sept, 2023 personally appeared before me Matt Lowe who being by me duly sworn, did say that they are the authorized agent of the Declarant authorized to execute this Declaration and did certify that this Declaration was approved by Declarant's members.



726102  
8/8/2026

[Signature]  
NOTARY PUBLIC



**Exhibit A-Legal Description**

[TO BE INSERTED]

FRUIT HEIGHTS, UTAH

JOB NO. 4825-12  
9-11-2023

15-137-0001  
thru 0038

PART OF THE NORTHWEST, SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 36,  
TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY,  
DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING N00°07'46"W 1438.16 FEET AND S89°52'14"W 132.48 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36 (SAID SOUTH QUARTER CORNER BEING N89°59'50"E 2639.73 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 36); THENCE N25°55'00"W 59.27 FEET; THENCE S71°26'10"W 21.91 FEET; THENCE N19°31'14"W 53.95 FEET (N19°22'00"W RECORD); THENCE N19°21'10"W 255.92 FEET (N19°22'00"W RECORD); THENCE N71°01'48"E 7.78 FEET; THENCE N31°25'46"W 314.06 FEET; THENCE N70°56'08"E 52.12 FEET; THENCE N32°56'10"W 288.40 FEET; THENCE N32°21'00"W 251.16 FEET; THENCE N31°13'42"W 249.40 FEET; THENCE N69°33'00"E 17.56 FEET; THENCE N47°11'47"W 195.33 FEET; THENCE N54°57'27"W 151.47 FEET; THENCE N22°56'32"E 15.00 FEET; THENCE N67°03'28"W 4.00 FEET; THENCE N22°56'32"E 60.00 FEET; THENCE N02°25'27"E 183.73 FEET; THENCE N69°49'33"E 218.66 FEET; THENCE S23°08'19"E 115.51 FEET; THENCE N66°51'41"E 273.91 FEET; THENCE N89°44'25"E 65.12 FEET; THENCE S23°08'19"E 219.86 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 430.00 FEET, AN ARC LENGTH OF 97.72 FEET, A DELTA ANGLE OF 13°01'16", A CHORD BEARING OF S16°37'41"E, AND A CHORD LENGTH OF 97.51 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE LEFT WITH A RADIUS OF 370.00 FEET, AN ARC LENGTH OF 99.55 FEET, A DELTA ANGLE OF 15°24'58", A CHORD BEARING OF S17°49'31"E, AND A CHORD LENGTH OF 99.25 FEET; THENCE S25°32'00"E 416.19 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 530.00 FEET, AN ARC LENGTH OF 30.18 FEET, A DELTA ANGLE OF 03°15'44", A CHORD BEARING OF S23°54'08"E, AND A CHORD LENGTH OF 30.17 FEET; THENCE S22°16'16"E 320.63 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 45.81 FEET, A DELTA ANGLE OF 17°29'55", A CHORD BEARING OF S31°01'14"E, AND A CHORD LENGTH OF 45.63 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE RIGHT WITH A RADIUS OF 480.00 FEET, AN ARC LENGTH OF 119.27 FEET, A DELTA ANGLE OF 14°14'11", A CHORD BEARING OF S32°39'06"E, AND A CHORD LENGTH OF 118.96 FEET; THENCE S25°32'00"E 816.15 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 120.00 FEET, AN ARC LENGTH OF 115.78 FEET, A DELTA ANGLE OF 55°16'55", A CHORD BEARING OF S53°10'28"E, AND A CHORD LENGTH OF 111.34 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE RIGHT WITH A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 173.61 FEET, A DELTA ANGLE OF 55°15'38", A CHORD BEARING OF S53°11'06"E, AND A CHORD LENGTH OF 166.96 FEET; THENCE S25°33'17"E 1281.15 FEET; THENCE S89°58'50"W 270.76 FEET; THENCE N20°16'56"W 428.39 FEET; THENCE N20°16'07"W 145.00 FEET; THENCE S83°10'04"W 19.44 FEET; THENCE N25°33'17"W 889.98 FEET; THENCE ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 50.00 FEET, AN ARC LENGTH OF 46.29 FEET, A DELTA ANGLE OF 53°02'24", A CHORD BEARING OF S09°15'37"W, AND A CHORD LENGTH OF 44.65 FEET; THENCE S17°15'35"E 83.12 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 100.00 FEET, AN ARC LENGTH OF 121.70 FEET, A DELTA ANGLE OF 69°43'53", A CHORD

BEARING OF S17°36'21"W, AND A CHORD LENGTH OF 114.33 FEET; THENCE S14°37'14"W 15.16 FEET; THENCE S26°05'47"E 272.42 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 275.00 FEET, AN ARC LENGTH OF 51.84 FEET, A DELTA ANGLE OF 10°48'00", A CHORD BEARING OF S20°41'47"E, AND A CHORD LENGTH OF 51.76 FEET; THENCE S15°17'47"E 101.14 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 25.00 FEET, AN ARC LENGTH OF 19.93 FEET, A DELTA ANGLE OF 45°40'10", A CHORD BEARING OF S38°07'53"E, AND A CHORD LENGTH OF 19.40 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE RIGHT WITH A RADIUS OF 58.00 FEET, AN ARC LENGTH OF 288.78 FEET, A DELTA ANGLE OF 285°16'13", A CHORD BEARING OF S81°40'09"W, AND A CHORD LENGTH OF 70.40 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE LEFT WITH A RADIUS OF 25.00 FEET, AN ARC LENGTH OF 26.01 FEET, A DELTA ANGLE OF 59°36'02", A CHORD BEARING OF N14°30'14"E, AND A CHORD LENGTH OF 24.85 FEET; THENCE N15°17'47"W 88.93 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 225.00 FEET, AN ARC LENGTH OF 42.41 FEET, A DELTA ANGLE OF 10°48'00", A CHORD BEARING OF N20°41'47"W, AND A CHORD LENGTH OF 42.35 FEET; THENCE N26°05'47"W 305.77 FEET; THENCE N26°59'25"W 268.29 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 25.00 FEET, AN ARC LENGTH OF 23.11 FEET, A DELTA ANGLE OF 52°57'26", A CHORD BEARING OF N53°28'08"W, AND A CHORD LENGTH OF 22.29 FEET; THENCE ALONG A REVERSE CURVE TURNING TO THE RIGHT WITH A RADIUS OF 58.00 FEET, AN ARC LENGTH OF 170.56 FEET, A DELTA ANGLE OF 168°29'26", A CHORD BEARING OF N04°17'52"E, AND A CHORD LENGTH OF 115.42 FEET; THENCE N26°59'25"W 88.78 FEET; THENCE S63°54'13"W 246.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 1389823 S.F. OR 31.906 ACRES MORE OR LESS.

TOGETHER WITH:

PART OF THE NORTHWEST, SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 36, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING N00°07'46"W 513.40 FEET AND S89°52'14"W 18.23 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36 (SAID SOUTH QUARTER CORNER BEING N88°40'00"E 2639.86 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 36); THENCE S15°22'59"E 165.68 FEET; THENCE S73°13'00"W 131.12 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MOUNTAIN ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES: (1) ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 1022.40 FEET, AN ARC LENGTH OF 35.58 FEET, A DELTA ANGLE OF 01°59'39", A CHORD BEARING OF N25°19'04"W, AND A CHORD LENGTH OF 35.58 FEET; AND (2) N26°18'53"W 125.08 FEET; THENCE N70°41'50"E 161.31 FEET TO THE POINT OF BEGINNING.

CONTAINING 23683 S.F. OR 0.544 ACRES MORE OR LESS.

ENTIRE SUBDIVISION CONTAINS 32.450 ACRES MORE OR LESS.

**FRUIT HEIGHTS, UTAH**

JOB NO. 4825-12

9-11-2023

*Proposed Phase 2A*

**PART OF THE NORTHWEST AND SOUTHWEST QUARTERS OF SECTION 36, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:**

BEGINNING AT THE CENTER QUARTER OF SAID SECTION 36 (SAID CENTER QUARTER CORNER BEING NORTH 00°07'46" WEST 2624.93 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36. SOUTH QUARTER CORNER OF SECTION 36 BEING NORTH 89°59'50" EAST 2639.86 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 36 WHICH IS THE BASIS OF BEARINGS); THENCE SOUTH 00°07'46" EAST 54.19 FEET ALONG THE SECTION LINE; THENCE SOUTH 64°28'00" WEST 140.68 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF ROCK LOFT RIDGE DRIVE; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES: (1) ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 530.00 FEET, AN ARC LENGTH OF 14.24 FEET, A DELTA ANGLE OF 01°32'22", A CHORD BEARING OF NORTH 24°45'49" WEST, AND A CHORD LENGTH OF 14.24 FEET; (2) NORTH 25°32'00" WEST 416.19 FEET; (3) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 370.00 FEET, AN ARC LENGTH OF 99.55 FEET, A DELTA ANGLE OF 15°24'58", A CHORD BEARING OF NORTH 17°49'31" WEST, AND A CHORD LENGTH OF 99.25 FEET; (4) ALONG A REVERSE CURVE TURNING TO THE LEFT WITH A RADIUS OF 430.00 FEET, AN ARC LENGTH OF 97.72 FEET, A DELTA ANGLE OF 13°01'16", A CHORD BEARING OF NORTH 16°37'41" WEST, AND A CHORD LENGTH OF 97.51 FEET; AND (5) NORTH 23°08'19" WEST 193.34 FEET; THENCE NORTH 64°28'00" EAST 178.12 FEET; THENCE SOUTH 23°27'08" EAST 717.56 FEET; THENCE SOUTH 00°08'00" EAST 57.85 FEET TO THE POINT OF BEGINNING.

CONTAINING 152,307 SQUARE FEET OR 3.496 ACRES.

TOGETHER WITH:

**PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:**

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ROCK LOFT RIDGE DRIVE, SAID POINT BEING NORTH 00°07'46" WEST 2144.67 FEET AND NORTH 89°52'14" EAST 35.28 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36 (SOUTH QUARTER CORNER OF SECTION 36 BEING NORTH 89°59'50" EAST 2639.86 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 36 WHICH IS THE BASIS OF BEARINGS); THENCE NORTH 64°28'00" EAST 164.21 FEET; THENCE SOUTH 24°09'58" EAST 518.68 FEET; THENCE SOUTH 24°56'28" EAST 476.67 FEET; THENCE SOUTH 89°54'57" EAST 708.83 FEET; THENCE SOUTH 00°00'02" EAST 1308.61 FEET TO THE SECTION LINE; THENCE SOUTH 89°58'50" WEST 90.83 FEET ALONG SAID SECTION LINE TO THE EASTERLY RIGHT-OF-WAY LINE OF ROCK LOFT RIDGE DRIVE; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES: (1) NORTH 25°33'17" WEST 1281.15 FEET; (2) ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 180.00 FEET, AN ARC

LENGTH OF 173.61 FEET, A DELTA ANGLE OF 55°15'38", A CHORD BEARING OF NORTH 53°11'06" WEST, AND A CHORD LENGTH OF 166.96 FEET; (3) ALONG A REVERSE CURVE TURNING TO THE RIGHT WITH A RADIUS OF 120.00 FEET, AN ARC LENGTH OF 115.78 FEET, A DELTA ANGLE OF 55°16'55", A CHORD BEARING OF NORTH 53°10'28" WEST, AND A CHORD LENGTH OF 111.34 FEET; (4) NORTH 25°32'00" WEST 816.15 FEET; AND (5) ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 480.00 FEET, AN ARC LENGTH OF 100.23 FEET, A DELTA ANGLE OF 11°57'51", A CHORD BEARING OF NORTH 31°30'56" WEST, AND A CHORD LENGTH OF 100.05 FEET TO THE POINT OF BEGINNING.

CONTAINING 676,109 SQUARE FEET OR 15.521 ACRES.

(TOTAL AREA OF ROCK LOFT RIDGE ESTATES PHASE 2A IS 828,416 S.F. OR 19.018 ACRES.)



## BOUNDARY DESCRIPTION

PART OF THE SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 36, TOWNSHIP 4 NORTH, RANGE 1 WEST, BALT LAKE BASE & MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL C OF ROCK LOFT RIDGE ESTATES PHASE 1, SAID POINT BEING NORTH 00°07'46" WEST 813.40 FEET AND SOUTH 89°52'14" WEST 18.23 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36 (SOUTH QUARTER CORNER OF SECTION 36 BEING NORTH 89°50'50" EAST 2839.88 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 36 WHICH IS THE BASIS OF BEARINGS); THENCE SOUTH 70°41'50" WEST 181.31 FEET ALONG THE NORTHERLY LINE OF SAID PARCEL C OF ROCK LOFT RIDGE ESTATES PHASE 1; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL C THE FOLLOWING TWO (2) COURSES: (1) SOUTH 25°18'53" EAST 125.08 FEET; AND (2) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 1022.40 FEET, AN ARC LENGTH OF 35.58 FEET, A DELTA ANGLE OF 01°50'38", A CHORD BEARING OF SOUTH 25°19'04" EAST, AND A CHORD LENGTH OF 35.58 FEET; THENCE SOUTH 73°13'00" WEST 38.48 FEET; THENCE NORTH 26°35'24" WEST 298.94 FEET; THENCE NORTH 63°51'50" EAST 37.04 FEET; THENCE NORTH 25°55'53" WEST 99.24 FEET; THENCE NORTH 70°41'50" EAST 263.30 FEET; THENCE SOUTH 15°23'00" EAST 106.85 FEET; THENCE SOUTH 73°12'41" WEST 59.98 FEET; THENCE SOUTH 15°22'59" EAST 98.25 FEET TO THE POINT OF BEGINNING.

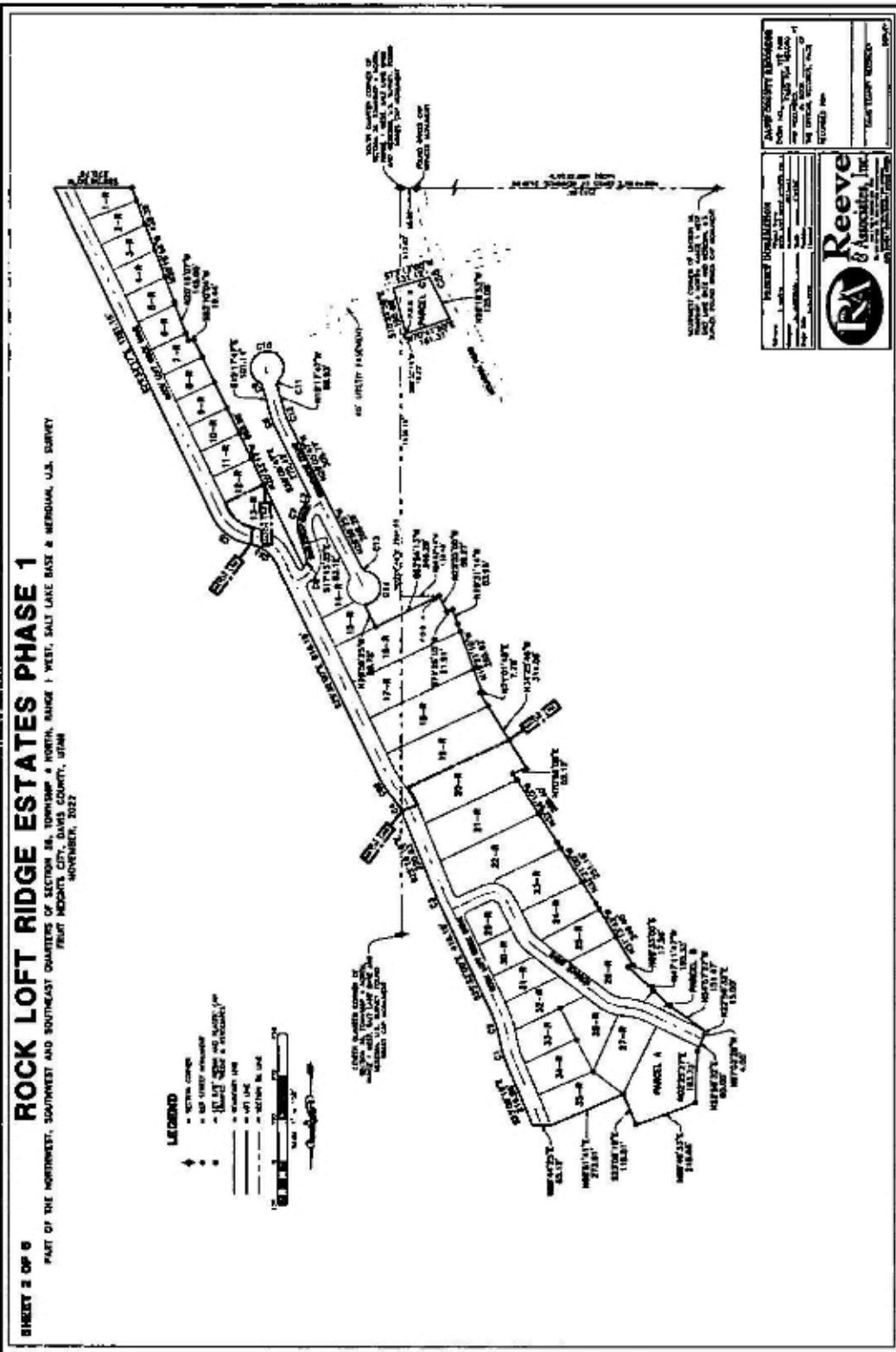
CONTAINING 84,721 SQUARE FEET OR 1.256 ACRES.

15-132-0067  
0068

**Exhibit B – Map**

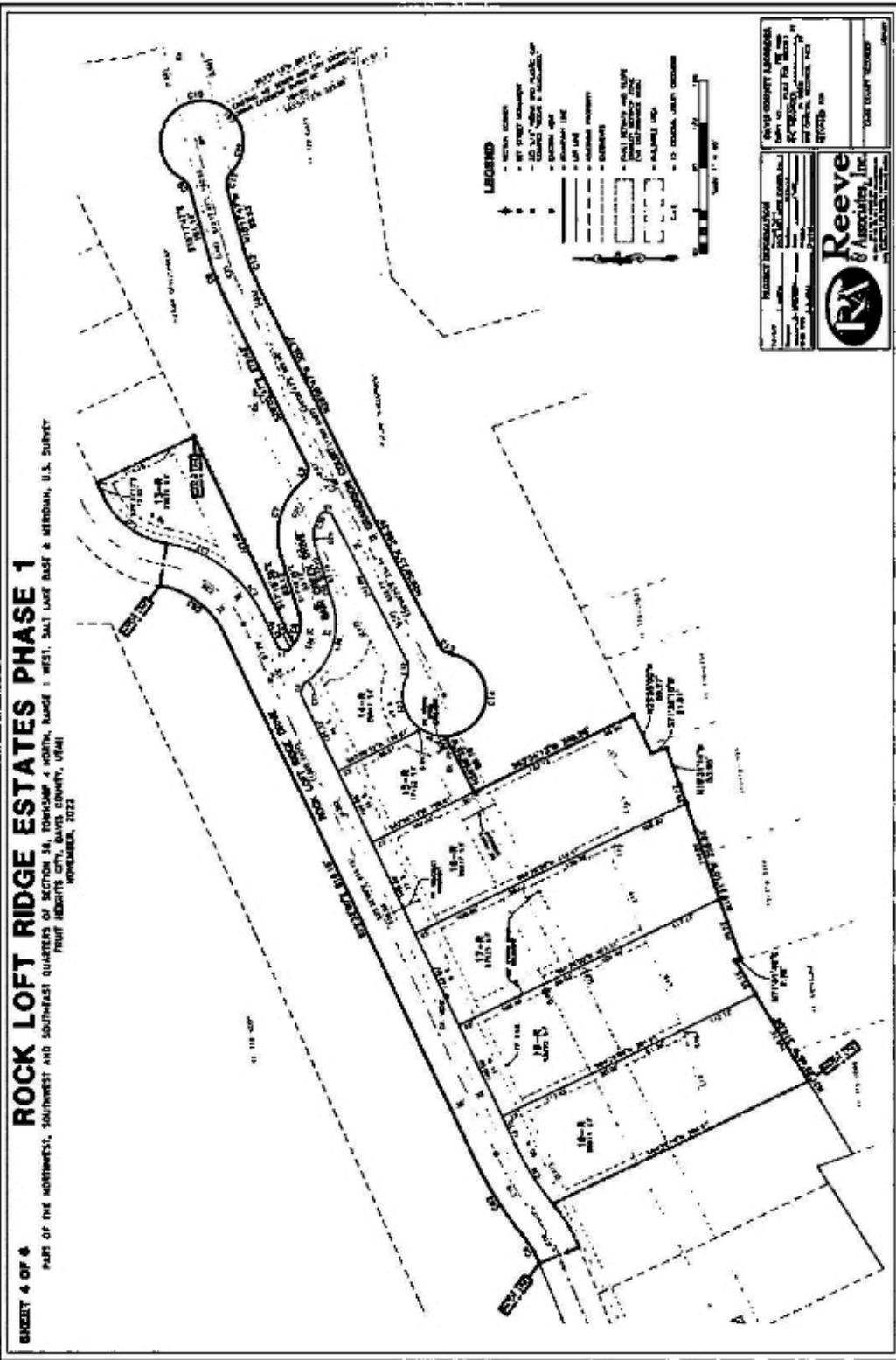
*[See Attached]*

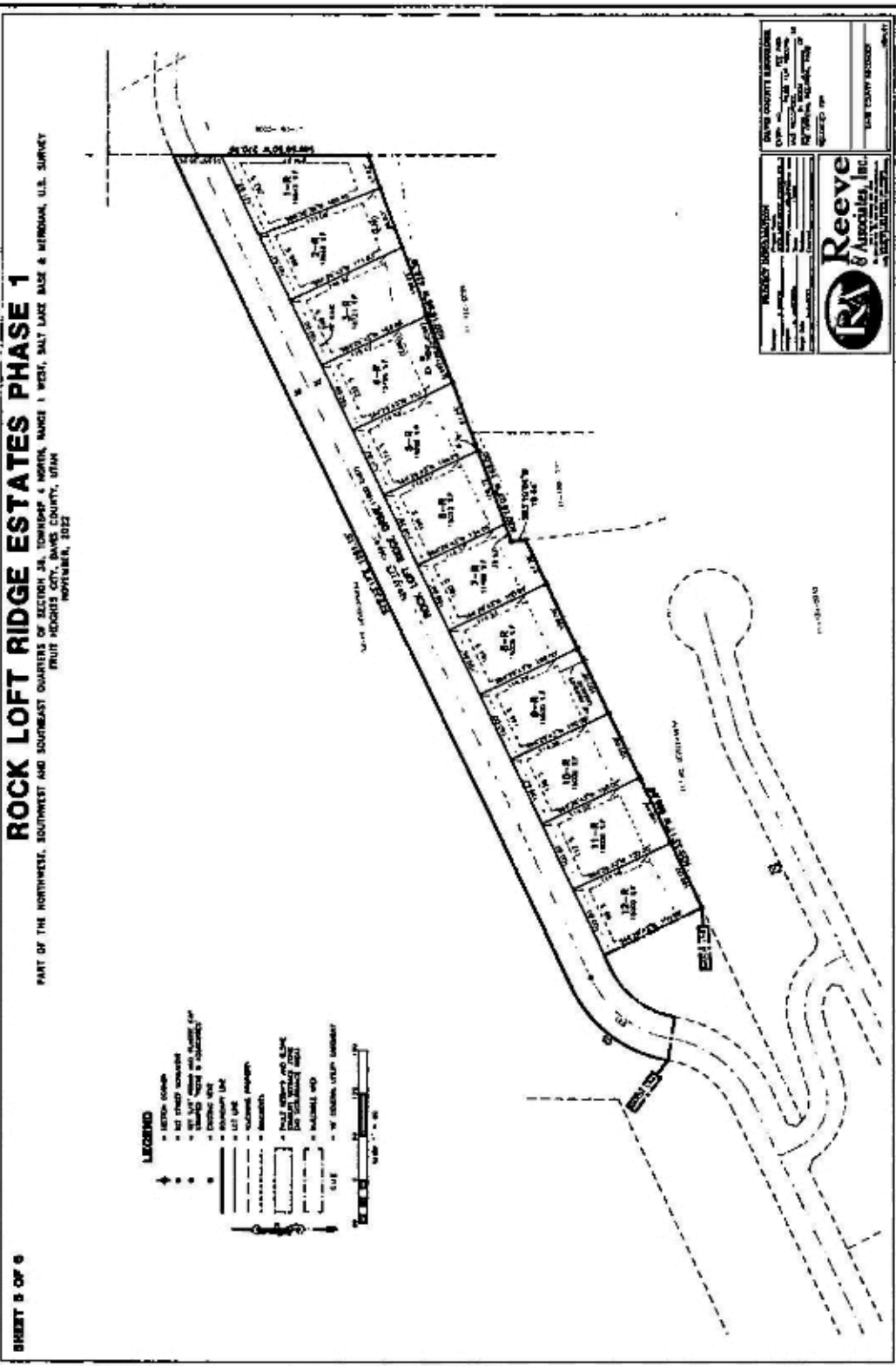












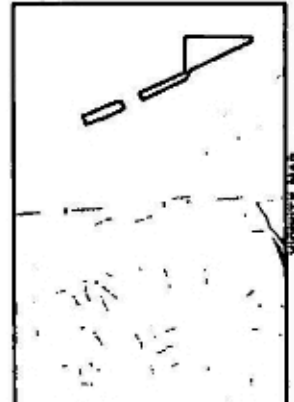


# ROCK LOFT RIDGE ESTATES PHASE 2A

PART OF THE NORTHWEST, SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 34, TOWNSHIP 4 NORTH, RANGE 1 WEST, 34TH LEGAL BASE & MERIDIAN, U.S. SURVEY  
FRONT HENRY COUNTY, ILLINOIS

**EXEMPT CERTIFICATE**  
I HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY IS EXEMPT FROM THE PAYMENT OF PROPERTY TAXES FOR THE YEAR 1998. THIS EXEMPTION IS BASED UPON THE FACT THAT THE PROPERTY IS USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES AND MEETS THE REQUIREMENTS OF THE ILLINOIS TAX CODE.

**OWNER'S CERTIFICATE**  
I, THE UNDERSIGNED, OWNER OF THE ABOVE DESCRIBED PROPERTY, HEREBY CERTIFY THAT THE PROPERTY IS USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES AND MEETS THE REQUIREMENTS OF THE ILLINOIS TAX CODE. I HAVE HEREBY RECEIVED FROM THE COUNTY CLERK A COPY OF THIS EXEMPT CERTIFICATE AND HAVE FILED IT WITH THE COUNTY CLERK'S OFFICE.



NEARBY MAP

**BASES OF MEASUREMENTS**  
ALL MEASUREMENTS MADE BY THE SURVEYOR WERE MADE BY MEANS OF A SINE BAR AND A STEEL TAPE. ALL ANGLES WERE RUN BY THE TRANSIT METHOD.

**NARRATIVE**  
THE BOUNDARY LINES SHOWN ON THIS MAP WERE DETERMINED BY MEANS OF A SINE BAR AND A STEEL TAPE. ALL ANGLES WERE RUN BY THE TRANSIT METHOD. THE DISTANCES WERE MEASURED TO THE CENTERS OF THE CORNERS.

**BOUNDARY DESCRIPTION**  
THE BOUNDARY LINES SHOWN ON THIS MAP WERE DETERMINED BY MEANS OF A SINE BAR AND A STEEL TAPE. ALL ANGLES WERE RUN BY THE TRANSIT METHOD. THE DISTANCES WERE MEASURED TO THE CENTERS OF THE CORNERS.

**NOTES**  
1. ALL MEASUREMENTS MADE BY THE SURVEYOR WERE MADE BY MEANS OF A SINE BAR AND A STEEL TAPE. ALL ANGLES WERE RUN BY THE TRANSIT METHOD. THE DISTANCES WERE MEASURED TO THE CENTERS OF THE CORNERS.

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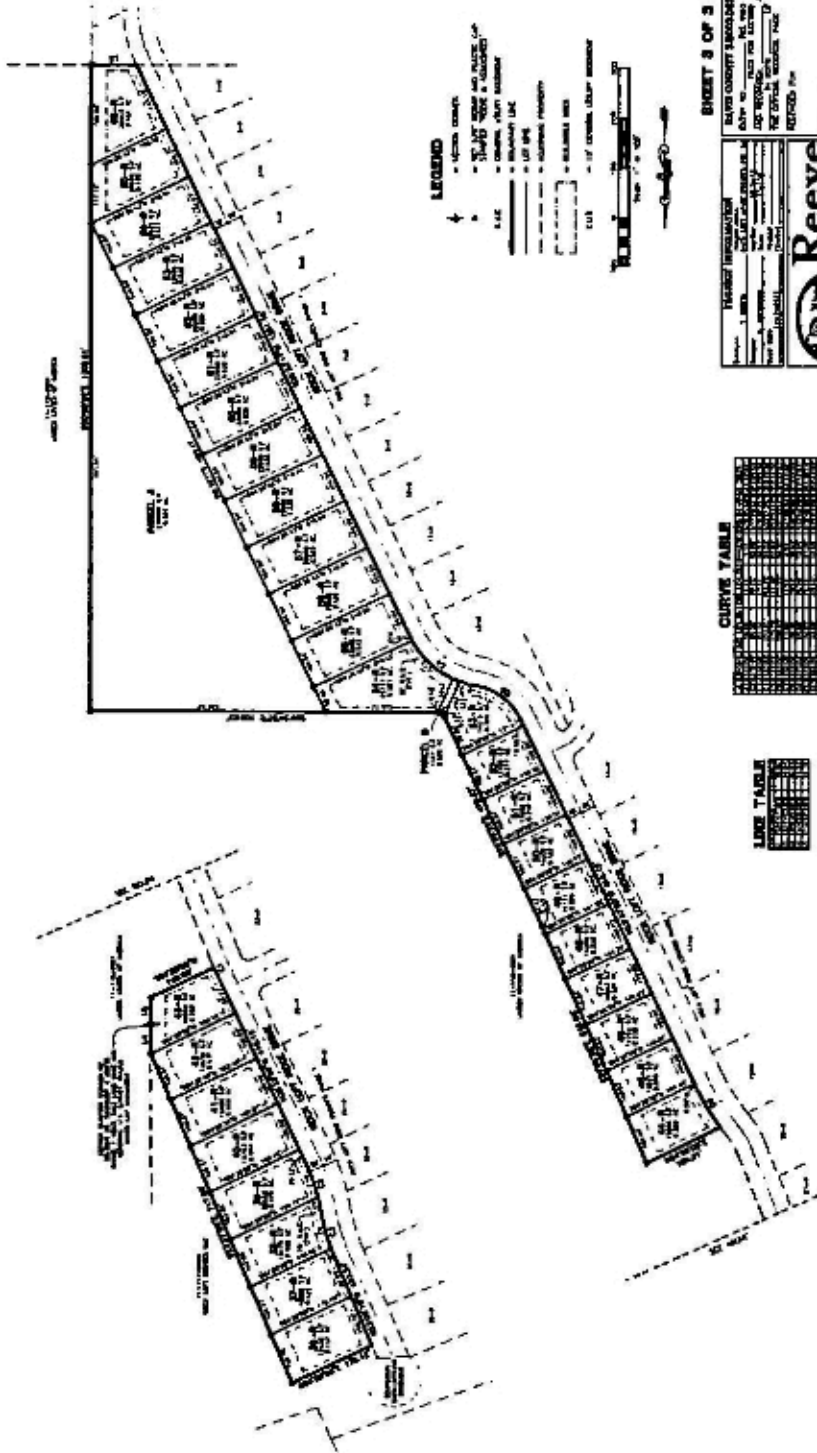
<b>PLANNING COMMISSION APPROVAL</b> APPROVED BY: _____ DATE: _____	
<b>CITY ENGINEER'S APPROVAL</b> APPROVED BY: _____ DATE: _____	
<b>CITY CLERK'S APPROVAL</b> APPROVED BY: _____ DATE: _____	
<b>STATE COMPTROLLER'S APPROVAL</b> APPROVED BY: _____ DATE: _____	
<b>RECORDS SECTION</b> FILED IN: _____	





**ROCK LOFT RIDGE ESTATES PHASE 2A**

PART OF THE NORTHWEST, SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 18, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASIN & MERRIMA, U.S. SURVEY  
PART HICKS CDT, DAVIS COUNTY, UTAH  
FEBRUARY, 2023



**LEGEND**

- VACANT CORNER
- 10' LOT FRONT EASEMENT
- COMMON AREA EASEMENT
- 10' LOT SIDE EASEMENT
- 10' LOT REAR EASEMENT
- 10' LOT CORNER EASEMENT
- 10' LOT FRONT EASEMENT
- 10' LOT SIDE EASEMENT
- 10' LOT REAR EASEMENT
- 10' LOT CORNER EASEMENT

**SHEET 3 OF 3**

**Reeve & Associates, Inc.**  
Surveying & Mapping  
1000 W. 1000 S., Suite 100  
Salt Lake City, UT 84143  
(801) 552-1234  
www.reeveandassociates.com

**Survey Information**  
Project Name: Rock Loft Ridge Estates Phase 2A  
Client: [REDACTED]  
Date: February 2023  
Scale: As Shown  
Author: [REDACTED]  
Reviewer: [REDACTED]

**CURVE TABLE**

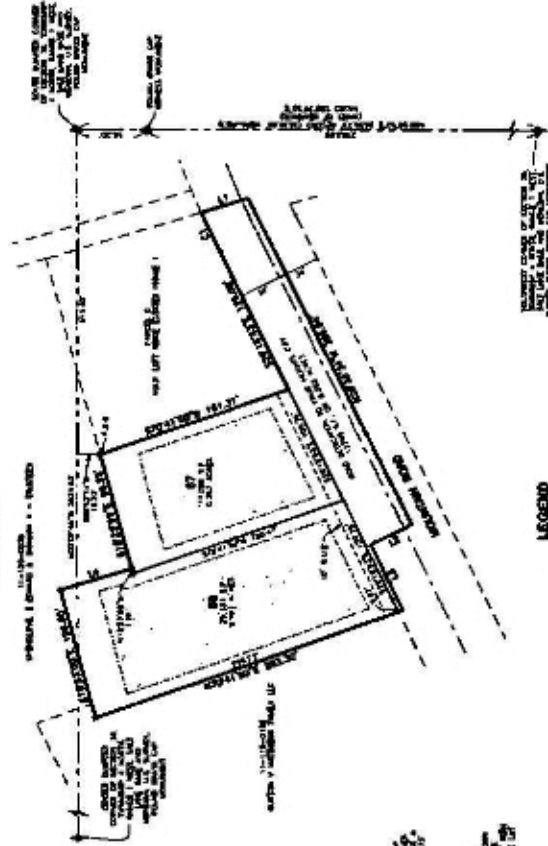
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1+05	1+05	1+05	1+05	0	0	0	0
1+10	1+10	1+10	1+10	0	0	0	0
1+15	1+15	1+15	1+15	0	0	0	0
1+20	1+20	1+20	1+20	0	0	0	0
1+25	1+25	1+25	1+25	0	0	0	0
1+30	1+30	1+30	1+30	0	0	0	0
1+35	1+35	1+35	1+35	0	0	0	0
1+40	1+40	1+40	1+40	0	0	0	0
1+45	1+45	1+45	1+45	0	0	0	0
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1+95	1+95	1+95	1+95	0	0	0	0
2+00	2+00	2+00	2+00	0	0	0	0

**LINE TABLE**

Station	PC	PVI	PT	Curve Length (ft)	Radius (ft)	Delta (Deg)	Chord Length (ft)
1+00	1+00	1+00	1+00	0	0	0	0
1+05	1+05	1+05	1+05	0	0	0	0
1+10	1+10	1+10	1+10	0	0	0	0
1+15	1+15	1+15	1+15	0	0	0	0
1+20	1+20	1+20	1+20	0	0	0	0
1+25	1+25	1+25	1+25	0	0	0	0
1+30	1+30	1+30	1+30	0	0	0	0
1+35	1+35	1+35	1+35	0	0	0	0
1+40	1+40	1+40	1+40	0	0	0	0
1+45	1+45	1+45	1+45	0	0	0	0
1+50	1+50	1+50	1+50	0	0	0	0
1+55	1+55	1+55	1+55	0	0	0	0
1+60	1+60	1+60	1+60	0	0	0	0
1+65	1+65	1+65	1+65	0	0	0	0
1+70	1+70	1+70	1+70	0	0	0	0
1+75	1+75	1+75	1+75	0	0	0	0
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1+95	1+95	1+95	1+95	0	0	0	0
2+00	2+00	2+00	2+00	0	0	0	0

# ROCK LOFT RIDGE ESTATES PHASE 2B

PART OF THE NORTHWEST, SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 16, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY  
FRUIT HEIGHTS CITY, DAVIS COUNTY, UTAH  
FEBRUARY, 2023



**RECORDING INFORMATION**  
This instrument is a...  
FILED FOR RECORD...  
DATE...  
BY...  
COUNTY CLERK...  
DAVIS COUNTY, UTAH

**PLAT INFORMATION**  
This plat is a...  
FILED FOR RECORD...  
DATE...  
BY...  
COUNTY CLERK...  
DAVIS COUNTY, UTAH

**LEGAL DESCRIPTION**  
This instrument is a...  
FILED FOR RECORD...  
DATE...  
BY...  
COUNTY CLERK...  
DAVIS COUNTY, UTAH

**LEGEND**

- Section Boundary
- Lot Boundary
- Easement
- Right-of-Way
- Utility Easement
- Setback
- Other

**LINE TABLE**

LINE NO.	BEARING	DISTANCE
1	N 00° 00' 00" E	100.00
2	S 00° 00' 00" E	100.00
3	S 00° 00' 00" W	100.00
4	N 00° 00' 00" W	100.00

**CURVE TABLE**

STATIONING	STARTING POINT	ENDING POINT	BEARING	DISTANCE	CURVE DATA
100+00	100+00	100+10	N 00° 00' 00" E	100.00	... 25.00' RADIUS
100+10	100+10	100+20	N 00° 00' 00" E	100.00	... 25.00' RADIUS

**SETBACK NOTE**  
Setback requirements shall be in accordance with the City of Fruit Heights Ordinance No. 11.04.010.

**BASE OF BEARINGS**  
Bearings are measured clockwise from the north-south line of the meridian.

**MARRIETTE**  
The name of the landowner of record for this project is Marriette LLC.

**BOUNDARY DESCRIPTION**  
The boundary description of the property is as follows: ...

**LOSS/RECOVERED TAXES**  
No taxes were assessed on this property during the period of this survey.

**PROPERTY TAXES**  
No taxes were assessed on this property during the period of this survey.

**LOSS/RECOVERED TAXES**  
No taxes were assessed on this property during the period of this survey.

**PROPERTY TAXES**  
No taxes were assessed on this property during the period of this survey.

**REeve & Associates, Inc.**  
Surveyors  
1000 West North Temple, Suite 100  
Salt Lake City, UT 84143  
Phone: 313.666.0000  
www.reeveandassociates.com

**LOSS/RECOVERED TAXES**  
No taxes were assessed on this property during the period of this survey.

**PROPERTY TAXES**  
No taxes were assessed on this property during the period of this survey.

**LOSS/RECOVERED TAXES**  
No taxes were assessed on this property during the period of this survey.

**PROPERTY TAXES**  
No taxes were assessed on this property during the period of this survey.

**LOSS/RECOVERED TAXES**  
No taxes were assessed on this property during the period of this survey.

**PROPERTY TAXES**  
No taxes were assessed on this property during the period of this survey.

3543452  
BK 8334 PG 932

**Exhibit C-Bylaws of Rock Loft Ridge Estates Owners Association**

**BYLAWS OF ROCK LOFT RIDGE ESTATES OWNERS ASSOCIATION**

**ARTICLE 1**

**BYLAW APPLICABILITY AND DEFINITIONS**

1.1 Purpose of Bylaws. These Bylaws are adopted for the regulation and management of the affairs of the Rock Loft Ridge Estates Owners Association, a Utah nonprofit corporation (the "Association"), organized to be the association to which reference is made in this Declaration of Covenants, Conditions, and Restrictions for Rock Loft Ridge Estates Subdivision, as amended or supplemented from time to time (the "Declaration"), to perform the functions as provided in the Declaration and to further the interests of "Owner(s)" of "Lots" within the Development.

1.2 Definitions. The capitalized terms used in the Bylaws shall have the same meaning given to them in the Declaration, unless otherwise specifically stated.

1.3 Bylaw Applicability. The provisions of these Bylaws are binding upon the Association and the Owners. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgment that the Owner has agreed to and ratified these Bylaws and will comply with them.

**ARTICLE 2**

**ASSOCIATION**

2.1 Composition. All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Association. Except for matters specifically reserved for a vote of the Owners, the Board, on behalf of the Owners, shall administer the Association's affairs.

2.2 Annual Meeting. Annual meetings shall be held once a year. The Board shall determine the date, time, and place of the annual meeting. The Association shall send notice of annual meetings at least 10 days but not more than 60 days in advance of the meeting. At the annual meeting, the Association shall conduct the following business in any order the Board sees fit:

- 2.2.1 Roll call and verification of quorum;
- 2.2.2 Approval of minutes from preceding annual meeting;
- 2.2.3 Reports of officers;
- 2.2.4 Special committee reports;

- 2.2.5 Election of Directors;
- 2.2.6 Review of reserve analysis;
- 2.2.7 Unfinished business from preceding annual meeting; and
- 2.2.8 New business.

2.3 **Special Meeting.** Special meetings may be held at any time for any purpose. A special meeting may be called by a majority of the Directors or upon petition of at least 20% of the Owners in good standing. The Association shall schedule and send notice of a special meeting within 30 days of request. The notice of a special meeting shall state the date, time, place, and purpose of the meeting. The Association shall send notice of a special meeting at least 10 days in advance of the meeting. No business may be transacted at a special meeting except as stated in the notice.

2.4 **Place of Meeting.** Meetings shall be held at a place designated by the Board and stated in the notice of meeting. Meetings shall be held in Davis County, State of Utah.

2.5 **Conduct of Meeting.** The President shall preside over all meetings of the Association. The Secretary shall keep the minutes of each meeting and take record of all resolutions.

2.6 **Quorum.** A quorum shall be the Owners present in person or by proxy at a meeting.

2.7 **Voting.** The Association shall initially have the following two classes of votes:

2.7.1 **Class A.** Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

2.7.2 **Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to 2 votes for every Lot owned by Declarant plus 2 votes for every Class A vote. The Class B Membership shall automatically cease and be converted to a Class A membership upon the sale of the last Lot of which Declarant is considered the Owner.

2.7.3 If a Lot is owned by more than one Person and multiple Owners are present at a meeting, the vote appertaining to that Lot shall be cast by agreement of a majority of the Owners of such Lot. If a Lot is owned by more than one Person and a single Owner is present at a meeting, the vote appertaining to that Lot shall be cast by the Owner present. The Association may conclusively presume the consent of all of a Lot's Owners when a vote is cast by a Lot with multiple Owners.

2.7.4 Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Owner consent shall be passed by majority vote of a quorum.



2.8 Good Standing. An Owner shall be in good standing if such Owner has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees; an Owner must have paid in full all such amounts at least three days prior to the meeting or action.

2.9 Proxies. An Owner in good standing may vote or otherwise act by proxy. An Owner may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the Association in person, by mail, or electronically. The proxy appointment form must name a proxy, be dated, and signed by the Owner. Any proxy appointment form that does not contain a proxy's name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Owner's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Owner, or the passage of 11 months.

2.10 Mail-in Ballots. Any action requiring a vote of the Owners, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in Nonprofit Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

2.11 Written Consent in Lieu of Vote. Any action requiring a vote of the Owners, except election of Directors, may be taken by written consent. Action by written consent shall comply with the procedures set forth in Nonprofit Act Section 16-6a-707, as amended from time to time. Written consents may be collected electronically.

2.12 Record Date. The record date for determining which Owners are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Owners shown on the records of the Association on the record date shall be the people entitled to vote on an action.

### ARTICLE 3

#### BOARD OF DIRECTORS

3.1 Number and Qualification of Directors. There shall be three directors ("Directors"). Except for Directors appointed by Declarant, Directors must be Members in good standing.

3.2 Selection and Term of Directors. Prior to the Turnover Meeting, Directors shall be appointed by the Declarant. After the Turnover Meeting, Directors shall be elected by the Owners. Directors shall serve for a term of two years and shall serve until their successors have been elected. There is no limit on the number of terms an Owner may serve as a Director. Directors terms shall be staggered as follows: (i) two Directors shall be elected in years ending with an even number; and (ii) one Director shall be elected in years ending with an odd number. At the initial election of the Directors, the newly elected Directors shall determine their terms.

3.3 Vacancies. After the Turnover Meeting, Director vacancies for any reason other than removal by vote of the Association shall be filled by vote of a majority of the remaining Directors. The Board shall conduct a special meeting for the purpose of filling the vacancy. The

meeting shall be valid even if a quorum is not present. Each replacement Director shall serve until the next annual Owners' meeting, then the vacancy shall be filled by vote of the Owners. The replacement Director elected by the Owners shall serve the remaining term of the replaced Director.

3.4 Removal of Directors. After the Turnover Meeting, a Director may be removed with or without cause by vote of a majority of all Owners. If the Owners propose to remove a Director, the Association shall give the Director and Owners at least 15-day written notice of the meeting and the purpose of the meeting. The Director shall be given an opportunity to be heard at the meeting prior to the vote to remove the Director. At any meeting where a Director is removed by the Owners, the Owners must vote to replace the Director. The replacement will serve the remaining term of the removed Director.

If any Director shall fail to appear at three (3) consecutive regular Board meetings or fifty percent (50%) or more of the regular meetings within any calendar year, after having received proper notice of the meetings, and after the Board has attempted in good faith to schedule meetings consistent with all of the members' schedules, the other Directors may by unanimous vote remove that Director and appoint a new Director. After the Turnover Meeting, any Director who allows his Assessments to become more than 90 days past due may be removed and replaced by vote of a majority of the Board. The Board shall give the Director 10-day written notice to cure the default prior to voting to remove the Director.

3.5 Organization Meeting. The Directors shall hold a meeting following the annual Owners meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board or may be conducted at a special meeting.

3.6 Regular Meetings. The Board shall hold regular meetings. The Board shall determine frequency, times, and locations of regular meetings. However, the Board shall conduct at least two regular meetings per year. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

3.7 Special Meetings. A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

3.8 Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions.

3.9 Quorum. A majority of the Board shall constitute a quorum. A quorum shall be required to conduct business at a meeting. If less than a quorum is present at a meeting, the majority of those present may adjourn the meeting until such time as a quorum is present. Once established, a quorum will be present even if Directors leave. Directors may attend a meeting telephonically.

3.10 Notice and Waiver of Meeting Notice. Notice to Directors may be personally delivered, mailed, or delivered by any available electronic means, including, without limitation: text, email, fax, or posting on the website. Directors may waive notice of meetings in writing. A

waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice, unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

3.11 Action without Meeting. Any action by the Board may be taken without a meeting if all the Directors submit a written vote either for, against, or abstaining from the action. Written votes may be given in person, by mail, or electronically. The Association shall file the written votes with its record of minutes.

3.12 Powers and Duties. The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Nonprofit Act, or any other rule of law. Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

3.12.1 Prepare an annual budget and establish what constitutes a Common Expense;

3.12.2 Adopt and amend rules, regulations, policies, and procedures governing the Common Areas, administration of the Association, and to enforce and interpret the Governing Documents;

3.12.3 Delegate authority to a managing agent to act on behalf of the Association;

3.12.4 Provide for the maintenance, repair, and replacement of the Common Areas;

3.12.5 Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas and administration of Association business. Provide for the compensation of personnel. Purchase supplies, equipment, and materials for use in the Association;

3.12.6 Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;

3.12.7 File lawsuits or initiate other legal proceedings on behalf of the Association;

3.12.8 Defend lawsuits, administrative actions, and other legal proceedings against the Association;

3.12.9 Enter into contracts on behalf of the Association;

3.12.10 Pay costs of any services rendered to the Project or multiple Owners, but not billed to the Owners individually;

3.12.11 Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Owners as required by the Community

Association Act and Nonprofit Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;

3.12.12 Grant easements, licenses, or permission over, under, and through the Common Areas;

3.12.13 Upon approval by 67% of the Members, to convey Common Areas;

3.12.14 Create committees;

3.12.15 Any other act allowed or required by the Governing Documents, the Community Association Act, or the Nonprofit Act; and

3.12.16 Any act allowed or required to be done in the name of the Association.

3.13 Manager. The Board shall employ a manager to perform such duties and services as the Board shall authorize. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents. However, the manager must obtain the Board's written consent to exercise the powers listed in Bylaw Sections 3.12.

3.14 Compensation. Directors shall not be compensated for their work. However, Directors may seek reimbursement for actual costs and mileage incurred during their service.

3.15 Limitation of Liability. The Directors shall not be liable to the Owners for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Director, unless the action constitutes willful misconduct or criminal conduct.

## ARTICLE 4

### OFFICERS

4.1 Election and Term of Officers. The Board shall elect the officers of the Association. Officers shall be elected from the Directors. Officers shall serve one-year terms and shall serve until their successor is elected.

4.2 Removal of Officers. The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

4.3 Offices. The Association officers shall be president, vice president, secretary, and treasurer. The Board may appoint assistant officers, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

4.3.1 President. The president shall be the chief executive officer. He or she shall preside at meetings of the Association and the Board. He or she shall be an unofficial member of all committees. He or she shall have general and active management of Association business. He or she shall see that all resolutions and policies of the Association are executed.

4.3.2 Vice President. The vice president shall perform the duties and exercise the powers of the president in the absence or disability of the president. If the president and vice president are unable to act, the Board shall appoint a Director to fulfill the duties on an interim basis.

4.3.3 Secretary. The secretary shall attend all meetings and take minutes thereof. He or she shall also make record of all resolutions, rule, policies, and procedures. He or she shall give or cause to be given notice of all meetings. He or she shall compile or cause to be compiled a complete list of the Owners and their contact information.

4.3.4 Treasurer. The treasurer shall oversee the finances of the Association. He or she shall be responsible to ensure that the Association has full and accurate records of income and expenses. He or she shall give financial reports at regular Board meetings and the annual Owners' meeting.

4.4 Delegation of Duties. The Association officers may delegate any of their duties to a manager or to a committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

4.5 Compensation. Officers shall not be compensated for their work. However, officers may seek reimbursement for actual costs and mileage incurred during their service.

## ARTICLE 5

### NOTICE

5.1 Manner of Notice. All notices and other communications required under the Governing Documents shall be in writing.

5.1.1 Notices to Owners may be delivered using the following methods:

(a) By professional courier service or First-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Owner in writing to the Association;

(b) By hand to the address of the Lot or to any other address designated by the Owner in writing to the Association;

(c) By posting on the Association website; or

(d) By facsimile, electronic mail, or any other electronic means to an Owner's number or address as designated by the Owner in writing to the Association.

5.1.2 Notice to the Association may be delivered using the following methods:

(a) By professional courier service or First-class U.S. mail, postage prepaid, to the principal office of the Association as designated in writing to the Owners; or

(b) By facsimile, electronic mail, or any other electronic means to the Associations official electronic contact as designated in writing to the Owners.



(c) Notices sent via courier or mail shall be deemed received 3 days after being sent. Notices hand delivered or sent via electronic means shall be deemed received upon delivery or being sent.

5.2 Waiver of Notice. Whenever any notice is required under the Governing Documents, the Community Association Act, or the Nonprofit Act, an Owner may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

## ARTICLE 6

### FINANCES

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year.

6.2 Checks, Agreements, Contracts. All checks, contracts, deeds, leases, and other instruments used for expenditures or obligations may be executed by any person authorized by the Board.

6.3 Availability of Records. Association financial records shall be available as provided by the Community Association Act and Nonprofit Act.

## ARTICLE 7

### AMENDMENT TO BYLAWS

7.1 Amendments. These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. These Bylaws may also be amended by a majority vote of a quorum of the Owners.

7.2 Recording. Any amendment to these Bylaws shall become effective on the date it is recorded in the Davis County Recorder's Office.

## ARTICLE 8

### MISCELLANEOUS

8.1 Office. The principal office of the Association shall be located at any place within the State of Utah which may be designated from time to time by the Board.

8.2 Conflicts. These Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Nonprofit Act, the Articles, the Map, or the Declaration. These Bylaws are superior to the rules, regulations, and policies of the Association.

8.3 Severability. If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.



8.4 Waiver. No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

8.5 Captions. The captions contained in these Bylaws are for convenience only. The captions shall not be used to interpret, limit, or enlarge the provisions of these Bylaws.

8.6 Gender, etc. Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has executed and adopted these Bylaws on behalf of the Association.

**DECLARANT:**

**BEAR CREEK DEVELOPMENT INC.,**  
a Utah corporation

By: Matt P  
Name: Matt Lowe  
Its: President

**Exhibit D – Waiver and Release Agreement**

Defined terms used herein, but not described herein, shall have the meanings ascribed to such terms in the DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ROCK LOFT RIDGE ESTATES SUBDIVISION dated Sept 8, 2023 and recorded on \_\_\_\_\_, 2021 as Entry No. \_\_\_\_\_ in the Davis County Recorder's Office.

\_\_\_\_\_ (individually or collectively, as applicable, "Owner") of Lot(s) \_\_\_\_\_ (individually or collectively, as applicable, the "Lot"), located within the Rock Loft Ridge Estates Subdivision, according to the official plat thereof recorded in the office of the Davis County Recorder, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agrees that it is their sole responsibility to obtain and comply with recommendations from competent geotechnical and engineering professionals with regard to the inspection of the Lot prior to purchase of and construction on the Lot. Owner acknowledges and agrees that Declarant makes no warranties whatsoever with regard to the Lot or the sale or transfer thereof, and Owner is specifically purchasing the Lot **AS-IS, WHERE-IS, WITH ALL FAULTS AND WITHOUT WARRANTY WHATSOEVER** with respect to any Geological Event or other geologic hazards that may occur on the Lot. In purchasing the Lot, Owner represents that Owner has inspected the Lot, is relying upon its own inspection of the Lot in making a purchase of the same, and accepts the Lot in its current AS-IS condition.

Owner acknowledges that the Lot may be subject to one or more Geologic Events or other geologic hazards that may present a risk to life or property. The City required Declarant to obtain the Geotechnical Report, which addresses the nature of the potential Geological Events on the Property, the potential effects and hazards associated with the development of each Lot within the Project and the occupants thereof in terms of risk and potential damage. The Geotechnical Report and other conditions for development of the Property are on file with the City and available for public inspection, and Owner acknowledges receipt of a copy of the Geotechnical Report. The Geotechnical Report or any other geologic hazards study area maps represent only those potentially hazardous areas known to Declarant and/or the City and should not be construed to include all possible potential hazard areas. The development, or approval of the development, shall not create any liability on the part of the Declarant, the City, any City officer, City reviewer, or City employee thereof, for any damages from any geological hazards on the Property. Owner acknowledges that (i) it has received, read, and understands, or has had the opportunity to receive, read, and understand, the Geotechnical Report, (ii) it has been notified of all potential geological hazards known to the City and/or Declarant, and (iii) detailed descriptions of the potential geological hazards on the Property, including, but not limited to, the Geotechnical Report and all soils, ground and surface water studies, analyses and reports known to the City and Declarant have been made available to the Owner at the Owner's request. Further, Owner hereby waives, releases, and agrees to indemnify the City and Declarant against all claims of any nature, including, but not limited to, costs and attorneys' fees, arising out of, related to, or resulting from any Geological Event or any of the foregoing conditions or other geological hazards on the Property.

This waiver and release constitutes a covenant running with the land. The burdens and benefits under this waiver and release shall be binding upon the undersigned and its successors,

representatives and assigns. Should any term or provision of this waiver and release agreement be ruled invalid or unenforceable by a court of competent jurisdiction, the remainder of this waiver and release agreement shall nonetheless stand in full force and effect. Should any action be brought to enforce the terms of this waiver and release agreement, the prevailing party shall be entitled to recover their costs and attorneys' fees incurred in such action, whether or not suit is commenced, and at trial or on appeal.

By signing below, the undersigned Owner acknowledges that they have carefully read and reviewed the terms of this waiver and release agreement and agree to its provisions.

OWNER:

Matt L

9/8/23  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date

*(See attached acknowledgements)*

**Exhibit E – Water Covenants**

**WATER EFFICIENT LANDSCAPE ORDINANCE**  
ORDINANCE No. 2022-003

**AN ORDINANCE ENACTING AND CODIFYING TITLE 8, CHAPTER 5A, OF THE FRUIT HEIGHTS MUNICIPAL CODE REGARDING WATER EFFICIENCY MEASURES RECOGNIZING THAT WATER IS NOT AN UNLIMITED RESOURCE AND THAT WATER CONSERVATION IS NECESSARY IN FRUIT HEIGHTS CITY.**

**WHEREAS**, water is an increasingly scarce resource, of limited supply, and is subject to ever increasing demands;

**WHEREAS**, it is the policy of Fruit Heights to promote the conservation and efficient use of water and to prevent waste of this valuable resource;

**WHEREAS**, Fruit Heights recognizes that landscapes provide areas for active and passive recreation;

**WHEREAS** landscape design, installation, maintenance and management can and should be water efficient;

**WHEREAS**, Fruit Heights desires to promote the design, installation and maintenance of landscapes that are both attractive and water efficient;

**WHEREAS** Fruit Heights can accomplish these goals by adopting this ordinance; and,

**WHEREAS**, Fruit Heights has the authority to adopt this ordinance pursuant to Utah Code Annotated (2010) § 10-3-702, and hereby exercises its legislative powers in doing so.

**Section 1. Ordaining Clause.** Be it ordained by Fruit Heights City, that the Water Efficient Landscape Ordinance, Number 2022-000.

**Section 2. Water Efficient Landscape Requirements.** An ordinance amending the Zoning Code of the of Fruit Heights City so as to add a Water Efficient Landscape Ordinance of minimum landscape requirements. This ordinance shall be referred to as "Fruit Heights City Water Efficient Landscape Ordinance".

**Section 3. Purpose**The City Council has found that it is in the public interest to conserve the public's water resources and to promote water efficient landscaping. The purpose of this ordinance is to protect and enhance the community's environmental, economic, recreational, and aesthetic resources by promoting efficient use of water in the community's landscapes, reduce water waste and establish a structure for designing, installing, and maintaining water efficient landscapes throughout the City.

**Section 4. Definitions**The following definitions shall apply to this ordinance: Applied Water: The portion of water supplied by the irrigation system to the landscape.

**Bubbler:** An irrigation head that delivers water to the root zone by "flooding" the planted area, usually measured in gallons per minute. Bubblers exhibit a trickle, umbrella, or short stream pattern.

**Check Valve:** A device used in sprinkler heads or pipe to prevent water from draining out of the pipe through gravity flow. Used to prevent pollution or contamination of the water supply due to the reverse flow of water from the secondary irrigation system.

**Drip Emitter:** Drip irrigation fittings that deliver water slowly at the root zone of the plant, usually measured in gallons per hour.

**Effective Precipitation:** The portion of total precipitation which becomes available for plant growth.

**Established Landscape:** The point at which plants in the landscape have developed significant root growth into the soil.

**Establishment Period:** the first year after installing the plant in the landscape.

**Evapotranspiration (ET):** The quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time, expressed in inches per day, month or year.

**Grading Plan:** The Grading Plan shows all finish grades, spot elevations as necessary and existing and new contours with the developed landscape area.

**Ground Cover:** Material planted in such a way as to form a continuous cover over the ground that can be maintained at a height not more than twelve (12) inches.

**Hardscape:** Driveways, Sidewalks, Patios, Solid Surface Decks and Paths.

**Irrigation System Audit:** An in-depth evaluation of the performance of an irrigation system that includes, but is not limited to, inspection, system tune-up recommendations, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and recommend adjustments to the irrigation schedule. The irrigation schedule should be in place prior to the Irrigation System Audit.

**Irrigation Landscaped Area:** All portions of a development site to be improved with plantings and irrigation. Natural open space areas shall not be included in the irrigated landscape area.

**Irrigation Efficiency:** the measurement of the amount of water beneficially applied, divided by the total amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system hardware characteristics and management practices.

**Irrigation Plan:** The irrigation plan shows the components of the irrigation system with water meter size, backflow prevention (when outdoor irrigation is supplied with culinary water), precipitation rates, flow rate and operating pressure for each irrigation circuit, and identification of all irrigation equipment.

**Landscape Architect:** A person who holds a professional license to practice landscape architecture in the state of Utah. Only a Landscape Architect can legally create commercial landscape plans.

**Landscape Designer:** A person who may or may not hold professional certificates for landscape design/architecture and cannot legally create commercial landscape plans. Landscape Designers generally focus on residential design and horticultural needs of home landscapes.

**Landscape Education Package:** A package that is intended to inform and educate water users in the city about water efficient landscapes. This package should include a listing of water conserving plants, certified landscape designers, landscape architects, certified irrigation designers, and certified irrigation contractors. Information regarding the City's water rates, billing format for water use and commitment to water conservation may also be included.

**Landscape Plan Documentation Package:** The preparation of a graphic and written criteria, specifications, and detailed plans to arrange and modify the effects of natural features such as plantings, ground and water forms, circulation, walks and other features to comply with the provisions of this ordinance. The Landscape Plan Documentation Package shall include a project data sheet, a Planting Plan, an Irrigation Plan, and a Grading Plan.

**Landscape Zone:** A portion of the landscaped area having plants with similar water needs, areas with similar microclimate (i.e., slope, exposure, wind, etc.) and soil conditions, and areas that will be similarly irrigated. A landscape zone can be served by one irrigation valve, or a set of valves with the same schedule.

**Landscaping:** Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers, or grass; natural features such as rock, stone, or bark chips; and structural features, including but not limited to, fountains, reflecting pools, outdoor artwork, screen walls, fences or benches.

**Localscapes®:** A locally adaptable and environmentally sustainable urban landscape style that requires less irrigation than traditional Utah landscapes.

**Maximum Applied Water Allowance (MA WA):** the upper limit of annual applied water for the established landscaped area as specified in Section 8. It is based upon the area's reference evapotranspiration, a plant adjustment factor, and the size of the landscape area. The Estimated Total Water Use shall not exceed the MAWA.

**Microclimate:** The climate of a very small, restricted area that is different from the surrounding area. These areas include shade areas, sun areas, and areas protected by surrounding structures.

**Mulch:** Any material such as rock, bark, wood chips or other materials left loose and applied to the soil as a surface covering.

**Overhead Spray:** A water distribution device or irrigation head in the form of a pop-up, fixed pattern or rotary stream or spray that sprays irrigation water in an arc above the landscape.

**Park Strip:** A typically narrow landscaped area located between the back-of-curb and sidewalk.

**Plant Adjustment Factor:** A reference evapotranspiration factor, also referred to as a crop coefficient which is a value to indicate water needs of various plant types for optimum growth or yield. It is a factor to provide acceptable appearance and function of the plant.

**Planting Plan:** A plan to clearly and accurately identify and locate new and existing trees, shrubs, ground covers, turf areas, driveways, sidewalks, hardscape features, and fences.

**Pop-up Spray Head:** A sprinkler head or water distribution device that sprays water through a nozzle in a fixed pattern with no rotation.

**Precipitation Rate:** The amount of water applied to a given area, usually measured in inches per



hour.

**Pressure Compensating:** A irrigation system component that compensates for fluctuating water pressure by only allowing a fixed volume of water through the component.

**Rehabilitated Landscaping:** Altering, repairing, or adding to a landscape to make possible a compatible use, increase curb appeal, decrease maintenance, etc.

**Rotor Spray Head:** A sprinkler head that distributes water through a nozzle by the rotation of a gear or mechanical rotor.

**Runoff:** Irrigation water that is not absorbed by the soil or landscape area to which it is applied, and which surface flows onto other areas.

**Smart Automatic Irrigation Controller:** An automatic timing device used to remotely control valves in the operation of an irrigation system using the internet to connect to a real time weather source or soil moisture sensor. Smart Automatic Irrigation Controllers schedule irrigation events using either evapotranspiration or soil moisture data to control when and how long sprinklers or drip systems operate and will vary based on time of year and weather/soil moisture conditions.

**Special Landscape Area: (SLA)** means an area of the landscape dedicated solely to edible plants, areas irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

**Spray Sprinkler:** An irrigation head that sprays water through a nozzle.

**Stream Sprinkler:** An irrigation head that projects water through a gear rotor in single or multiple streams.

**Turf:** A surface layer of earth containing grass species with full root structures that are maintained as mowed grass or lawn.

**Waste of Water:** shall include, but not necessarily limited to:

The use of water for any purpose, including outdoor irrigation, that consumes, or for which is applied substantial excess water beyond the reasonable amount required by the use, whether such excess water is lost due to evaporation, percolation, discharges into the sewer system, or is allowed to run into the gutter or street. Washing sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas except to alleviate immediate health or safety hazards.

**Water-Conserving Plant:** A plant that can generally survive with available rainfall once established although supplemental irrigation may be needed or desirable during spring and summer months.

**Section 5. Applicability of Water Efficient Landscape Ordinance** The provisions of this ordinance shall apply to all new and rehabilitated landscaping for public agency projects, private commercial and industrial development projects, developer-installed landscaping in multi-family and single-family residential projects, and homeowner provided landscape improvements within the front, side, and rear yards of residential dwellings.

**Single-family development:**

1. A landscaping permit is required to be submitted for review with Fruit Heights City. The following shall be shown on the landscape plan.

2. Turf shall be restricted to no more than 30% of the buildable area of the lot up to ½ acres in size. Lots that are greater than ½ acre, turf restriction will be the lesser of no more than 20% of the buildable area of the lot or a maximum of 5,500 square feet of turf.
3. The buildable area shall be calculated by excluding any restricted or sensitive lands areas and excluding any area of the lot with slopes more than 30%.
4. No turf or non-drip irrigation shall be allowed in restricted or sensitive areas of any lot as determined by Fruit Heights City. This turf restriction will not apply to artificial turf that doesn't require water.
5. Trees and bushes will be encouraged as an integral part of the comprehensive landscape plan. A combination of hardscapes, mulch, bark, trees, bushes, and other low water use features will be required on all landscaping plans.
6. The City will review landscape plans to ensure that all landscaping plans meet the intent of the Water Efficient Landscape Ordinance prior to approval.
7. No turf or overhead spray allowed in park strip or areas with width's less than 8 feet.

**Multi-Family, and PRUD type development:**

1. These zones are restricted to not more than 20% turf on the total landscaped area with an allowance for city designated recreation areas. No turf or overhead spray will be allowed in the park strip or in areas with width's less than 8 feet.

**Section 6. Landscapes in Commercial, Industrial, and Institutional Developments**

2. Commercial, industrial, and institutional landscapes shall meet the Landscape and Irrigation Design Standards of this ordinance. The turf area shall not exceed 15% of the total landscaped area, outside of active recreation areas. No turf or overhead spray will be allowed in the park strip or in areas with width's less than 8 feet.

**Section 7. Landscape Design Standards**

**A. Plant Selection**

1. Plants shall be well-suited to the microclimate and soil conditions at the project site. Both native and locally-adapted plants are acceptable. Plants with similar water needs shall be grouped together as much as possible.
2. Areas with slopes greater than 30% shall be landscaped with deep-rooting, water- conserving plants for erosion control and soil stabilization.
3. Park strips and other landscaped areas less than eight (8) feet wide shall be landscaped with water-conserving plants that do not require overhead spray irrigation. *(Note: See Exhibit A for a list of recommended plants for various landscape situations and conditions (not a comprehensive list).*
4. Mulch. After completion of all planting, all irrigated non-turf areas shall be covered with a minimum four (4) inch layer of mulch to retain water, inhibit weed growth, and moderate soil temperature. Non-porous material shall not be placed under the mulch.

**B. Soil Preparation.**

1. Soil preparation will amend and/or enhance existing or imported soil to create planting soil suitable to provide healthy growing conditions for the plants and to encourage water infiltration and penetration. Soil preparation shall include scarifying the existing soil to a minimum depth of six (6) inches, and amending the existing soil with organic material, nutrients, etc. as per specific recommendations of the Landscape Architect based on the soil conditions or importing and placing amended topsoil per specific recommendation of the Landscape Architect.

**C. Tree Selection.** Tree species shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. Trees shall be selected as follows: Broad canopy trees shall be selected where shade or screening of tall objects is desired;

1. Broad canopy trees shall be selected where shade or screening of tall objects is desired;
1. Low-growing trees shall be selected for spaces under utility wires;
2. Select trees from which lower branches can be trimmed to maintain a healthy growth habit where vision clearance and natural surveillance is a concern;
3. Narrow or columnar trees shall be selected where awnings or other building features limit growth, or where greater visibility is desired between buildings and the street for natural surveillance;
4. Street trees shall be planted within existing and proposed park strips, and in sidewalk tree wells on streets without park strips. Tree placement shall provide canopy cover (shade) and avoid conflicts with existing trees, retaining walls, utilities, lighting, and other obstacles; and
5. Trees less than a two-inch caliper shall be double-staked until the trees mature to a two-inch caliper.

**Section 8. Irrigation Design Standards**

**A. Sprinkler Systems**

1. Smart Automatic Irrigation Controller. Landscaped areas shall be provided with a Water Sense labeled smart irrigation controller which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions. All controllers shall be equipped with automatic rain delay or rain shut-off capabilities and shall be setup to operate in "smart" mode.
2. Each valve shall irrigate a landscape with similar site, slope and soil conditions and plant materials with similar watering needs. Turf and non-turf areas shall be irrigated on separate valves. Drip emitters and sprinklers shall be placed on separate valves.
3. Drip emitters or a bubbler shall be provided for each tree. Bubblers shall not exceed 1.5 gallons per minute per device. Bubblers for trees shall be placed on a separate valve unless specifically exempted by the City due to the limited number of trees on the project site.

4. Drip irrigation or bubblers shall be used to irrigate plants in non-turf areas. Pop-up spray heads shall be at a minimum of four (4) inches in height to avoid blockage from lawn foliage.
5. Sprinklers shall have matched precipitation rates with each control valve circuit.
6. Sprinkler heads shall be attached to rigid lateral lines with flexible material (swing joints) to reduce potential for breakage.
7. Check valves shall be required where elevation differences cause low-head drainage. Pressure compensating valves and sprinklers shall be required where a significant variation in water pressure occurs within the irrigation system due to elevation differences.
8. Filters shall be required on all secondary water service connections. Filters shall have as a minimum a 30 mesh screen and shall be cleaned and maintained by the property owner on a regular basis.
9. Drip irrigation lines require additional filtration at or after the zone valve at a minimum of 200 mesh. End flush valves are required as necessary for drip irrigation lines.
10. Valves with spray or stream sprinklers shall be scheduled to operate in accordance with local water supplier restrictions to reduce water loss from wind, evaporation, or other environmental conditions not suitable for irrigation.
11. Program controller to operate valves for multiple repeat cycles (cycle and soak) where necessary to reduce runoff, particularly on slopes and soils with slow infiltration rates.

#### **Section 9. Maximum Applied Water Allowance**

Each new development or rehabilitated landscape that uses primary potable water for landscape irrigation must provide a water budget calculation to demonstrate a Maximum Applied Water Allowance (MAWA) for the new landscape or development. For parcels using secondary water, the MAWA is determined by the secondary water provider based on parcel size and is referred to as an allocation.

The Maximum Applied Water Allowance shall be calculated using the following equation:

$$MAWA = (ET_o) (0.62)(1.15)[(0.8 \times LA) + (0.3 \times SLA)]$$

MAWA = Maximum Applied Water Allowance (gallons per year)

ET<sub>o</sub> = Reference Evapotranspiration (inches per year) as calculated from weather data at the closest available weather station.

0.62 = Conversion Factor (to gallons)

1.15 = Delivery Inefficiency Factor (sprinkler system uniformity etc.)

0.8 = ET Adjustment Factor (ETAF), plant factor or crop coefficient (.8 standard for cool season turf)

LA = Landscape Area including SLA (square feet)

0.3 = Additional Water Allowance for SLA

SLA = Special Landscape Area (square feet)

ET<sub>o</sub> values can be obtained directly from the USU Climate Center where a data base of weather data from local stations is collected, analyzed, and stored. If you cannot find the ET data you need, please contact the city.

Additional details and examples of calculations are found in Appendix A

**Section 10. Landscapes in New Single-family Residential Developments**

- A. Homebuilders and/or developers subdividing lots and/or constructing new single-family residential homes shall provide water-efficient landscaping to home buyers, when the landscape is installed by the homebuilder/developer. The water-efficient landscaping option shall meet the Landscape Design Standards and Irrigation Design Standards of this ordinance, and any central open space area consisting of plant material in mass requiring overhead spray irrigation shall not exceed 30% of the total landscaped area.
- B. Homebuilders and/or developers who construct model homes for a designated subdivision shall install water-efficient landscaping. The water-efficient landscaping shall meet the Landscape Design Standards and Irrigation Design Standards of this ordinance, and any central open space area consisting of plant material in mass requiring overhead spray irrigation shall not exceed 30% of the total landscaped area.
- C. New Construction homes shall have landscaping and irrigation plans approved by the City Planning Department prior to issuance of building permits, for which no variance may be granted, and which meet the aforementioned requirements.
- D. Model homes shall include an informational brochure on water-efficient landscaping.
- E. When buyers or owners are installing their own landscaping on new home construction, a time frame for landscaping to be completed shall be 18 months from the time of occupancy to complete the total landscape.

**Section 11. Prohibition on Restrictive Covenants Requiring Uniform Plant Material Irrigated with Spray Irrigation**

- A. Any Homeowners Association governing documents, such as bylaws, operating rules, covenants, conditions, and restrictions that govern the operation of a common interest development, are void and unenforceable if they:
  - 1. Require the use of any uniform plant material requiring overhead spray irrigation in landscape areas less than 8 feet wide or require any uniform plant material requiring overhead spray irrigation in other areas that exceed 20% of the landscaped area; or
  - 2. Prohibit, or include conditions that have the effect of prohibiting, the use of water-conserving plants as a group; or
  - 3. Have the effect of prohibiting or restricting compliance with this ordinance or other water conservation measures.

**Section 12. Documentation for Commercial, Industrial, and Institutional Projects**

Landscape Plan Documentation Package. A copy of a Landscape Plan Documentation Package shall be submitted to and approved by the City prior to the issue of any permit. A copy of the approved Landscape Plan Documentation Package shall be provided to the property owner or site manager and to the local retail water purveyor. The Landscape Plan

Documentation Package shall be prepared by a registered landscape architect and shall consist of the following items:

- A. **Project Data Sheet.** The Project Data Sheet shall contain the following:
  1. Project name and address;
  2. Applicant or applicant agent's name, address, phone number, and email address;
  3. Landscape architect's name, address, phone number, and email address; and
  4. Landscape contractor's name, address, phone number and email address.
- B. **Planting Plan.** A detailed planting plan shall be drawn at a scale that clearly identifies the following:
  - a. Location of all plant materials, a legend with botanical and common names, and size of plant materials;
  - b. Property lines and street names;
  - c. Existing and proposed buildings, walls, fences, utilities, paved areas and other site improvements;
  - d. Existing trees and plant materials to be removed or retained;
  - e. Scale: graphic and written;
  - f. Date of Design;
  - g. Designation of a landscape zone, and
  - h. Details and specifications for tree staking, soil preparation, and other planting work.
- C. **Irrigation Plan.** A detailed irrigation plan shall be drawn at the same scale as the planting plan and shall contain the following information:
  - a. Layout of the irrigation system and a legend summarizing the type and size of all components of the system, including manufacturer name and model numbers;
  - b. Static water pressure in pounds per square inch (psi) at the point of connection to the public water supply;
  - c. Flow rate in gallons per minute and design operating pressure in psi for each valve and precipitation rate in inches per hour for each valve with sprinklers, and
  - d. Installation details for irrigation components.
- D. **Grading Plan.** A Grading Plan shall be drawn at the same scale as the Planting Plan and shall contain the following information:
  1. Property lines and street names, existing and proposed buildings, walls, fences, utilities, paved areas and other site improvements, and
  2. Existing and finished contour lines and spot elevations as necessary for the proposed site improvements.



**Section 13. Plan Review, Construction Inspection, and Post-**

**Construction Monitoring for Commercial, Industrial, and Institutional  
Projects**

- A. As part of the Building Permit approval process, a copy of the Landscape Plan Documentation Package shall be submitted to the City for review and approval before construction begins.
- B. All installers and designers shall meet state and local license, insurance, and bonding requirements, and be able to show proof of such.
- C. During construction, site inspection of the landscaping may be performed by the City Building Inspection Department.
- D. Following construction and prior to issuing the approval for occupancy, an inspection shall be scheduled with the Building Inspection Department to verify compliance with the approved landscape plans. The Certificate of Substantial Completion shall be completed by the property owner, contractor or landscape architect and submitted to the City.
- E. The City reserves the right to perform site inspections at any time before, during or after the irrigation system and landscape installation, and to require corrective measures if requirements of this ordinance are not satisfied.

**Section 14. Prohibited Watering Practices**

Regardless of the age of a development (commercial, industrial, office, or residential), water shall be properly used. The wasting of water for any purpose is strictly prohibited.


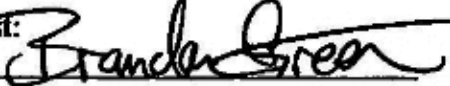

**Section 15. Enforcement, Penalty for Violations**

The Fruit Heights City Public Works Director or designee(s) are authorized to enforce all provisions of this Ordinance.

Any consumer who violates any provisions of this Ordinance shall be issued a written notice of violation. This notice shall be affixed to the property where the violation occurred. The notice will describe the violation and order that it be corrected, cured or abated immediately or within times specified by the city. Failure to receive a notice shall not invalidate further actions by the City. If the order is not complied with, the City may terminate water service to the customer and/or issue a citation.

**Section 16. Effective Date**

This ordinance shall be effective as of the 17 of May 2022

<b>Dated: May 17, 2022</b>	<b><u>FRUIT HEIGHTS</u></b>
	Attest:  Brandon Green, Recorder
	 John Pohlman Mayor

Appendix  
A

The Maximum Applied Water Allowance shall be calculated using the equation:

$$\text{MAWA} = (\text{ETo}) (0.62) (1.15) [(0.8 \times \text{LA}) + (0.3 \times \text{SLA})]$$

The example calculations below are hypothetical to demonstrate proper use of the equations and do not represent an existing and/or planned landscape project. The ETo values used in these calculations are examples only but are real ETo values from Weber Basin's weather station and should be substituted for actual ETo values for your specific city. For actual irrigation scheduling, automatic smart irrigation controllers are required and shall use current reference evapotranspiration data (most of which is part of each controller company's supporting weather network) or soil moisture sensor data.

(1) Example MAWA calculation: a hypothetical landscape project in Layton Utah with an irrigated landscape area of 20,000 square feet without any Special Landscape Area (SLA = 0, no edible plants, or recreational areas). To calculate MAWA, the annual reference evapotranspiration value for Layton is 32.8 inches as documented from the Weber Basin weather station data.

$$\text{MAWA} = (\text{ETo}) (0.62) (1.15) [(0.8 \times \text{LA}) + (0.3 \times \text{SLA})]$$

MAWA = Maximum Applied Water Allowance (gallons per year)  
ETo = Reference Evapotranspiration (inches per year)  
0.62 = Conversion Factor (to gallons)  
1.15 = Delivery Inefficiency Factor (sprinkler system uniformity etc.)  
0.8 = ET Adjustment Factor (ETAF) typical for cool season turf  
LA = Landscape Area including SLA (square feet)  
0.3 = Additional Water Allowance for SLA  
SLA = Special Landscape Area (square feet)

$$\text{MAWA} = (32.8 \text{ inches}) (0.62) (1.15) [(0.8 \times 20,000 \text{ square feet}) + (0.3 \times 0)] = \mathbf{374,182 \text{ gallons per year (or 1.15 AF/yr)}}$$

(2) In this next hypothetical example, the landscape project in Ogden Utah has the same ETo value of 32.8 inches and a total landscape area of 15,000 square feet. Within the 15,000 square foot project, there is now a 2,000 square foot area planted with edible plants. This 2,000 square foot area is considered to be a Special Landscape Area.

$$\text{MAWA} = (\text{ETo}) (0.62) (1.15) [(0.8 \times \text{LA}) + (0.3 \times \text{SLA})]$$

$$\text{MAWA} = (32.8 \text{ inches}) (0.62) (1.15) [(0.8 \times 15,000 \text{ square feet}) + (0.3 \times 2,000 \text{ square feet})] \\ = 20.34 \times [12,000 + 600] \text{ gallons per year} = \mathbf{280,696.8 \text{ gallons per year (or .86 AF/year)}}$$

EXHIBIT  
A

Exhibit A is a list of approve Water-Wise plants. For additional information please visit the following websites:

<https://www.weberbasin.com/Conservation/PlantInfo>

<https://www.extension.usu.edu/cwel/water-wise-plants>